

UNITED STATES DEPARTMENT OF AGRICULTURE
USDA NATIONAL ORGANIC PROGRAM

In the Matter of:)
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)
NATIONAL ORGANIC STANDARDS)
)
(NOSB) BOARD MEETING)
)
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Tuesday,
September 17, 2002

The Radisson Barcelo Hotel Washington
Washington, D. C.

The above captioned matter convened, pursuant
to Notice at 9:00 a.m.

MEMBERS PRESENT:

- OWUSU BANDELE
- KIM BURTON
- DAVE CARTER
- GOLDIE CAUGHLAN
- ANN COOPER
- DENNIS HOLBROOK
- MARK KING
- ROSALIE KOENIG
- MICHAEL LACY
- RICHARD MATHEWS
- KEVIN R. O'RELL
- NANCY OSTIGUY
- JIM RIDDLE
- BARBARA ROBINSON
- GEORGE SIEMON

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1 MS. OSTIGUY: Okay. Nancy Ostiguy, Entomology
2 Department at Penn State. Environmental position.

3 MR. HOLBROOK: Dennis Holbrook. Producer from South
4 Texas.

5 MS. COOPER: Ann Cooper, Executive Chef for our
6 school, East Hampton, New York.

7 MR. BANDELE: Owusu Bandele, Louisiana, certified
8 grower. Also Professor in Agriculture, Southern University in
9 Baton Rouge.

10 MS. CAUGHLAN: Goldie Caughlan from Seattle,
11 Washington, with the Consumer Cooperative, as a consumer
12 representative on the Board.

13 MS. BURTON: Kim Burton, Smucker Quality Beverages,
14 Chico, California, handler rep.

15 MR. RIDDLE: Jim Riddle, certifier representative,
16 Winona, Minnesota.

17 CHAIRPERSON CARTER: Dave Carter, Ag Consultant and
18 also Director of the National Bison Association, and actually
19 representing consumers.

20 MS. ROBINSON: Barbara Robinson, Ag Marketing Service,
21 Deputy Administrator for Transportation and Marketing Programs.

22 MR. MATHEWS: Richard Mathews, Program Manager,
23 National Organics Program.

24 MR. O'RELL: Kevin O'Rell, Horizon Organic,

1 representing handlers.

2 MR. KING: Mark King, Indianapolis, Indiana retail
3 representative and share processor.

4 MR. LACY: Mike Lacy, University of Georgia,
5 representing science.

6 MS. KOENIG: Rose Koenig, Gainesville, Florida,
7 producer rep.

8 MR. SIEMON: George Siemon, Wisconsin farmer rep.

9 CHAIRPERSON CARTER: Okay. Thank you.

10 Just one thing from our Austin meeting where we
11 introduced a new process, is we go through the materials process
12 in voting in that the Chairperson will actually then bring that
13 forward from the committee and say what the committee vote was
14 and make a motion that it is a synthetic that is allowable, you
15 know, etc.

16 The difficulty we had from Austin is in trying to get
17 the minutes developed from the transcript, it was a little bit
18 difficult, so we are going to be doing roll call votes here.

19 Katherine, who is keeping the record here, it would
20 make her job easier, as she tries to develop the minutes. So
21 rather than just asking for a show of hands or whatever, we will
22 be doing roll calls as we go forward.

23 With that, you have the agenda that is in the book.
24 The only addition to the agenda I would make is -- and this is

1 what I wanted to touch base with the Committee Chairs last night
2 -- is see if we have the written reports ready of the Committee
3 work plans, I would like to just go through those briefly at the
4 end of the agenda today.

5 So when we get done at 6:00 o'clock, or whatever time,
6 we're just going to have some brief reports on Committee work
7 plans, and I hope that those are all in writing.

8 Are there any other changes or additions to the agenda?
9 Anybody see anything that they want to have added? If not,
10 we'll just go ahead and leave the agenda open as we proceed.

11 (No response.)

12 CHAIRPERSON CARTER: Yeah. Jim just reminded me, if
13 everyone here could shut off their cell phones, or at least put
14 them on vibrate? Any cell phones that go off, you'll be in
15 charge of buying the first round of refreshments after the
16 meeting adjourns. Rose?

17 MS. KOENIG: Just in terms of the agenda, you might
18 want to mention some of the crops, materials that are listed, but
19 we won't be reviewing.

20 CHAIRPERSON CARTER: Okay.

21 MS. KOENIG: If you just want me to go through that
22 when I do material review?

23 CHAIRPERSON CARTER: Yeah, there are some things that
24 will be deferred until the October meeting, and we'll go through

1 those and catch them.

2 Okay. If there's nothing else then, in the book you
3 should have a copy of the minutes of the meeting from the meeting
4 of May 6th through 8th in Austin. And is there a motion to
5 approve those minutes?

6 MS. OSTIGUY: So moved.

7 MR. RIDDLE: Second.

8 CHAIRPERSON CARTER: Nancy moved, Jim seconded, and
9 discussion on the minutes.

10 Any discussion? Corrections? Comments?

11 (No response.)

12 CHAIRPERSON CARTER: Okay. Hearing none, all of those
13 in favor say aye.

14 (Chorus of ayes.)

15 CHAIRPERSON CARTER: Opposed same sign?

16 (No response.)

17 CHAIRPERSON CARTER: And the motion carries.

18 Then you will also note that we have in the book just
19 the Executive Committee minutes from the meetings that have been
20 held between. This Board does not approve those, but are there
21 any comments on any of the Executive Committee minutes?

22 Okay.

23 VOICE: Yeah, just a comment for members of the public.

24 The NOSB now has a web page that the NOP has put together, and

1 the Executive Committee minutes are posted. I think there are
2 still two of these that aren't up there yet, but they will be.

3 So if you want to refer to Executive Committee minutes,
4 they are posted on the NOSB page of the website.

5 CHAIRPERSON CARTER: If you're having trouble sleeping
6 at night, that makes good reading.

7 Okay. If there's nothing else, then think we'll go
8 ahead and start in on the public comment. And if I could have
9 those folks to come forward for public comment, we will be
10 timing. You'll be provided five minutes.

11 And Jim Riddle, our official timekeeper, will give you
12 the high sign when you have one minute left. He has the official
13 one minute sheet. And then we will cut you off at five minutes.
14

15 You can complete whatever sentence you're saying at
16 that time, as long as you don't try and make an entire page into
17 one sentence. And then we'll have some questions.

18 So the first person that is up, Gerald Davis.

19 For the record, as you begin your comments, please
20 identify yourself and who you represent.

21 MR. DAVIS: Good morning. I'm Gerald Davis with Cal
22 Organic, spelled C-a-l, as in California. I want to thank you
23 for the opportunity to continue to speak on behalf of organic
24 farmers who support the continued use of Chilean Nitrate.

1 The current petition to prohibit this material and its
2 accompanying type reviews, in my opinion, do not provide
3 sufficient reason for this Board to overturn the current
4 guidelines for use.

5 I would like to encourage each Board member to
6 carefully read the letter that you have received from Craig
7 Weekly of Small Planet Foods. Craig, as most of you know, was a
8 former member of NOSB during the time when Chilean Nitrate was
9 last debated.

10 In his current letter to you on this issue, he clearly
11 states the flaws of this latest petition, and states that this
12 Board has no compelling justification for changing the rules on
13 this natural mined mineral.

14 I quote. "Just as the charter NOSB could find no
15 scientific basis in the TAP reviews for prohibiting this non
16 synthetic fertilizer, the current petition is not supported by
17 scientific evidence that documents soil quality degradation, that
18 documents detrimental effects on soil, that documents detrimental
19 environmental effects, that documents detrimental effects on
20 human health, or that documents detrimental effects on water
21 quality caused by use of Chilean Nitrate on organic farms."

22 We at Cal Organic Vegetable Company agree
23 wholeheartedly with this letter in its portrayal of the flaws of
24 this petition.

1 In Austin last May, I presented to this Board that the
2 current guidelines for Chilean Nitrate usage have helped our farm
3 by forcing us to reduce our reliance on the material.

4 Cal Organic has been growing organic vegetables for
5 fifteen years or more, and we are the premier quality producer of
6 organic vegetables in the industry. We have, over the past few
7 years, honed usage of the material to its bear minimum in our
8 crop system.

9 But judging from the questions several of you asked at
10 that time, I thought it was wise to give you more information on
11 just how we use the material, so as to clear up some
12 misconceptions that were alluded to by the questions asked.

13 First, there are several crops that we don't use
14 Chilean Nitrate on. Most of our carrot production, melons,
15 watermelons, green beans, peaches, grapes, none of these do we
16 use Chilean Nitrate.

17 For other crops such as summer season lettuce, and
18 broccoli, and greens, the amount we use is not even the full
19 twenty percent budget that is allowed, but is more like ten
20 percent. That would include winter care also.

21 The crops that tend to take the full amount allowed in
22 the rule are most of the winter season lettuce, broccoli, and
23 greens, as well as main season potatoes, celery, and green
24 onions.

1 The actual pounds per acre of applied Nitrate Nitrogen
2 represented in these percentages is zero to sixty pounds per acre
3 of total applied Nitrate, applied incrementally five to twenty
4 pounds at a time through sprinkler irrigation, or sub-surface
5 banding. Almost none is applied during the last quarter of the
6 crop's life cycle.

7 These are small incremental, judicious Nitrate
8 applications, which are vitally important to rapidly growing
9 vegetables in order to produce a quality crop that matches or
10 exceeds the industry standards coming from conventional
11 producers.

12 Used in this way, we believe that Chilean Nitrate does
13 not leach into ground water, or cause any other problems in the
14 crop left over in what the consumer buys.

15 This is wise usage of a one-of-a-kind tool to grow the
16 finest, most consistent quality organic vegetables available on
17 the market today. Produce that looks as good, if not better,
18 than conventional produce, at prices the average American can
19 still afford.

20 The challenge we face in bringing organic production
21 methods to prominence in this country, will only be met when we
22 win the heart, mind, and pocketbook of the consumer.

23 As conventional agriculture plunges headlong into a
24 future with more and more synthetics, and genetically altered

1 whatevers, the organic movement must win the consumer over by
2 giving them a reasonable and affordable alternative. Clearly we
3 are turning the tide.

4 Produce is a cornerstone of this effort, whereby the
5 organic movement derails the plans and schemes of certain
6 corporations that seek to enslave the farming community to their
7 ways.

8 If you prohibit this material, I see potential for
9 another scenario, one in which in November or February of any
10 year, two newly converted organic shoppers see the lettuce and
11 broccoli on the store shelf that is smaller, paler, and twice the
12 price of conventional stuff down the street. And one lady says to
13 the other, you know, they say that that round-up ready lettuce is
14 just as good as regular lettuce.

15 MR. RIDDELL: Time.

16 MR. DAVIS: And one lady says to the other, you know,
17 they say that that round-up ready lettuce is just as good as
18 regular lettuce.

19 CHAIRPERSON CARTER: Thank you. Any questions?

20 MS. KOENIG: I had just one, Dave.

21 CHAIRPERSON CARTER: Yeah. Rose.

22 MS. KOENIG: A clarification question, and it came up
23 during our crops call on the product.

24 We weren't sure how certifiers actually implement that

1 twenty percent rule, so maybe you can kind of give us some
2 enlightened information.

3 On your soils, like say you're growing broccoli, where
4 you're using Chilean Nitrate, do you multi-crop on that, on those
5 soils, and is the twenty percent per crop or is it per plot?

6 MR. DAVIS: It's by crop. When we -- we don't multi-
7 crop a lot in our situation. Some partials do get two crops a
8 year. It would be like one lettuce crop planted in the spring,
9 and then in the fall of the same year another crop in which we
10 would reapply Compost for each crop.

11 So it's based on a per crop basis, and to our
12 certifier, I submit crop-by-crop, field-by-field, a breakdown of
13 what materials are applied, which are organic, you know, Composts
14 or chicken manures or whatever.

15 Add up the total nutrients derived from those, compare
16 that to the amount of Chilean Nitrate, and give them a field-by-
17 field breakdown of this field we used ten percent Nitrate, this
18 field we used zero, this field we used twenty percent.

19 MS. KOENIG: But is it your total Nitrogen budget
20 then, or is it crop-to-crop? I wasn't sure how that was being
21 applied in the field.

22 So when you add up all the Nitrogen you're applying to
23 all your crops or do you go, okay, in broccoli this --

24 MR. DAVIS: To that specific field and crop.

1 MS. KOENIG: To that specific field and crop.

2 MR. DAVIS: Right. Very specific. There's no room for
3 wiggle room. They can check our records of how much we've
4 bought, and where it went, and you know, we have to keep very
5 meticulous records.

6 MS. KOENIG: Okay. No, I understand the rest. So the
7 twenty percent, you're saying, is then based on the particular
8 plot, each field, or each crop.

9 MR. DAVIS: Right.

10 MS. KOENIG: So if it's twenty percent of the broccoli
11 budget, twenty percent on the lettuce budget, regardless of where
12 it was planted?

13 MR. DAVIS: No, no, no. It's specific.

14 MS. KOENIG: It's specific.

15 MR. DAVIS: Size specific, because we don't always use
16 the same amount. Certain times of year, we grow broccoli on
17 probably five or ten percent of the budget being Nitrate.

18 In the middle of summer when it's really not necessary,
19 we don't like to over use the material. We like what we've
20 discovered in what the restrictions have brought to our farm has
21 really helped. There is a point where you can use too much of the
22 material and we've been there and done that, and we like it
23 better the way it is.

24 MR. BANDELE: Just as a follow --

1 CHAIRPERSON CARTER: Owusu.

2 MR. BANDELE: I'm sorry. Just as a follow up then,
3 you're dealing with the analysis of like your Compost and your
4 other sources, so you're really -- it's twenty percent of what is
5 actually applied, not necessarily twenty percent of what the crop
6 is actually using because of leaching and de-nitrification and
7 those kinds of things.

8 MR. DAVIS: Correct.

9 MR. BANDELE: Is that correct?

10 MR. DAVIS: It's twenty percent of what is applied.

11 CHAIRPERSON CARTER: Any other questions, comments?

12 (No response.)

13 CHAIRPERSON CARTER: Okay. Thank you.

14 Jeff Huckaby. Good point. Then on deck is someone
15 from Richard Segal law offices.

16 MR. HUCKABY: Good morning. My name is Jeff Huckaby,
17 and I'm the general manager for Grimway Farms based in
18 Bakersfield, California. We're a family owned business, farming
19 on over 18,000 acres of certified organic ground. We farm
20 throughout California and Arizona, and are presenting converting
21 ground in Colorado.

22 Our core business in the past has been carrots, but
23 over the last few years we have expanded our operation to over
24 forty other items. Our ties to organic go back to 1985.

1 I'm here this morning as a farmer concerned about the
2 ruling of Sodium Nitrate and whether it will be allowed on the
3 list of approved materials. Sodium Nitrate is a valuable tool
4 when used properly.

5 As I just mentioned earlier, we farm over 18,000 acres
6 of organic ground. We have positioned ourselves throughout
7 California so that we can supply produce year round to our
8 customers. Still we find it necessary to use Sodium Nitrate to
9 help some of our crops during times of extremely cool weather.

10 We have a very complex fertility program that includes
11 cover crops prior to planting and vegetables. We also use
12 Compost, processed chicken manure, blood meal, feather meal, bone
13 meal, fish and Guano.

14 Of all our acreage farm, less than half has ever even
15 seen Sodium Nitrate. We feel we only need to use it when all
16 else fails.

17 On the ground that has had Sodium Nitrate used in small
18 amounts for years, we have yet to see any problems associated
19 with its use. The ground is as strong as ever, even after
20 fifteen years of use.

21 Our company has a team of three agronomists that
22 continue to do research in fertility. We continue to try to grow
23 without the use of Sodium Nitrate, but have had several times
24 when it was the only thing that meant the difference between a

1 mature crop harvested on time, and losing the crop.

2 There are very few tools out there to compete against
3 the conventional growers, and none that work as well as Sodium
4 Nitrate during the cool temperatures.

5 We at Grimway Farms are committed to replacing
6 conventionally grown products with high quality organic produce.
7 I believe that the goal of all organic farms is to eventually
8 produce enough organic produce to some day phase out the use of
9 pesticides and chemicals, and replace conventional products with
10 organic produce.

11 We have made hugh inroads into the large chain grocery
12 stores. Most are now giving the consumer the choice of organic
13 foods in all stores. Our company has helped make this possible.
14 We're able to produce an organic product year round.

15 In order for us to convince these chains to carry
16 organics, we must promise them we will not short their supply,
17 and we will not run out. Once these stores start a program,
18 they're reluctant to carry it through if we do short them, and do
19 not give them a constant supply.

20 We need the use of these organic tools to make it
21 possible for us to give them good quality produce. I have also
22 included letters of support from farmers, and from large
23 supermarkets that rely on us to give them that produce.

24 Some of the farmers who I've included, do not even use

1 Sodium Nitrate, but they do not want to see it removed as a tool.

2 I also have a letter from the California Organic
3 Advisory Board. They are convinced we need Sodium Nitrate as a
4 tool under certain conditions. They know presently that the only
5 other option during this period is to rely on foreign produce.

6 I'm here talking from experience of large organic farm,
7 from someone who has tried most all other options on a large
8 scale. We have not yet found an alternative during extreme
9 conditions that works as well as Sodium Nitrate.

10 We already have few tools to grow as an organic farmer.
11 We ask that you please do not take this valuable tool away. It
12 has proven to be effective when used with the twenty percent
13 rule, without any side effects.

14 We are asking that this natural tool, which has been
15 accepted by many organic certifiers for years, continue to be
16 allowed. I feel that not allowing Sodium Nitrate will be a big
17 step backwards as we start to make big steps forward.

18 The major chains across the nation have relied upon our
19 produce to build their programs. They tell us our product has
20 been a key in helping their programs take off. We give them a
21 high quality product that looks as good as a conventional
22 product.

23 It has the ability to be shipped across the national
24 and still look good when it gets there. During certain times of

1 the year, this has only been possible for us in the past with the
2 use of Sodium Nitrate.

3 Please continue to do as we have done in the past, and
4 allow the use of the Sodium Nitrate under the twenty percent
5 rule.

6 CHAIRPERSON CARTER: Okay. Thank you, Jeff.
7 Questions?

8 MS. KOENIG: I just have one.

9 CHAIRPERSON CARTER: Rose.

10 MS. KOENIG: In the TAP report, I'm not sure if you
11 had -- have you read that -- there was a list of alternatives.
12 Two of them that came to mind that seemed that they might be
13 viable, that we discussed in the Crops Committee, were blood
14 meal, and then there was product called, and I wish I had my TAP
15 with me, I think it was Fitamin 500 or something like that.

16 MR. HUCKABY: Right.

17 MS. KOENIG: Have your agronomists tested any of those
18 alternatives that were listed, and what were their results?

19 MR. HUCKABY: We have used the Fitamin. We have never
20 seen quite the reaction that we get from the Sodium Nitrate.
21 Blood meal, we use blood meal as a mainstay in our chicken
22 pellets.

23 But I can tell you from experience, this last two weeks
24 we've had difficulty getting enough pork blood to make the size

1 and the number of pellets that we need. Beef blood seems to be
2 readily available, but we have certain chains that won't accept
3 beef blood, if we tell them that's what's being used in our
4 chicken pellets, based on Mad Cow disease and some other fears in
5 the industry.

6 But we use it as a mainstay in our pork blood, in our
7 chicken pellets.

8 MS. KOENIG: Is it because there's other products? Is
9 it the water solubility problem, because they're not -- you're
10 not able to irrigate with those types of things when you need the
11 -- I mean is it the form or just you're not seeing the --

12 MR. HUCKABY: We're not seeing the reaction, but we do
13 use it regularly. I mean every crop we use, uses the blood.
14 Very few use the Chilean. But when we need it, that seems to be
15 the only thing, during the extreme cool weather, that seems to
16 work.

17 CHAIRPERSON CARTER: Other questions?

18 (No response.)

19 CHAIRPERSON CARTER: Okay. Thank you, Jeff.

20 Okay. Next up is the Richard Segal law offices, and
21 then on deck is Valerie Francis.

22 MR. SEGAL: Chairperson Carter, Members of the Board,
23 before I give my comment --

24 CHAIRPERSON CARTER: Can you identify yourself, first?

1 MR. SEGAL: Yes, please. Richard Segal. I'm a
2 practicing lawyer here in Washington, D.C. and I'm representing
3 Colorado Sweet Gold of Johnstown, Colorado.

4 Before I give my comments, it was mentioned earlier
5 that certain materials that are on the agenda are not going to be
6 taken up and are going to be deferred. Can you tell me whether
7 Activated Charcoal for Processing is --

8 FEMALE VOICE: It is going to be discussed this --

9 MR. SEGAL: It is going to be discussed.

10 FEMALE VOICE: Yes.

11 MR. SEGAL: Okay. Because my remarks have to do with
12 Activated Charcoal for Processing. I'm going to be very brief
13 and just speak from notes because I'm preparing a letter which
14 will be provided to all the members of the Board before Thursday,
15 which is when you'll be taking up the Activated Charcoal for
16 Processing petition.

17 Is that still the schedule?

18 FEMALE VOICE: Yes.

19 MR. SEGAL: That you're going to do it on a Thursday.

20

21 We want to point out to the Board that in our view it
22 would be inappropriate to take any action on the Activated
23 Charcoal for Processing petition. We feel that this petition is
24 not properly submitted to this Board because it is in the form of

1 a national list petition.

2 And we take the legal view that the Act does not cover
3 materials for processing, and does not place materials for
4 processing within the scope of the -- at least the material for
5 this -- this particular material and others like it, does not put
6 these materials into the scope of the national list because the
7 national list refers to ingredients in or on, in or on the
8 product.

9 And Activated Charcoal is not a material that is
10 brought to the material, is placed in or on. So we feel there's
11 a matter of jurisdiction here, that the Board does not have the
12 jurisdiction to take up a petition on Activated Charcoal because
13 Activated Charcoal is not an ingredient that goes in or on a
14 processed organic product.

15 We also have an objection because the posture of having
16 Activated Charcoal for Processing come before the Board as a
17 petition casts doubt on the acceptability of Activated Charcoal
18 when, in fact, Activated Charcoal is a processing technology that
19 has been used for a long time in organic processing of products,
20 both in Europe and the United States.

21 The TAP review, Page 5, for that particular -- for this
22 petition, the TAP review on Activated Charcoal for Processing,
23 points out that Kodak approves it without any conditions; the EU
24 regulations approve it without any conditions.

1 And it was not even mentioned, it didn't even -- it
2 didn't even surface on any of the standards of several certifiers
3 that were surveyed in the United States. The reason is that this
4 is just very accepted.

5 Now, how did this suddenly come into -- how did this
6 material come into play? December 5th, 2001, the Processing
7 Committee of this Board put out a proposal for reviewing
8 technologies, and it mentioned iron exchange, and it mentioned
9 ultraviolet.

10 And so this has suddenly put all these well accepted
11 processing technologies into a cloud of controversy which has not
12 been lifted.

13 So we feel the Board has not yet come up with a policy,
14 and the Board should not further muddy the waters by taking up
15 this particular petition at this time. We feel that this
16 petition is not properly before the Board because of the nature
17 of the material is different.

18 And this would be the first time that the Board was
19 trying to review such a material, and we feel it's inappropriate.
20 We will follow up with a written letter on this. Thank you.

21 CHAIRPERSON CARTER: Thank you, Richard.

22 Questions?

23 MS. KOENIG: I have a question.

24 CHAIRPERSON CARTER: Okay.

1 MS. KOENIG: I guess because he's a lawyer everybody's
2 going oh, oh, oh. But I mean Rick, I mean this is to me a
3 program guidance position. Where is our jurisdiction?

4 I mean I don't want to get into a -- I mean we're
5 trying to do these, I think, to help the industry. We're not
6 trying to do it to clarify things.

7 CHAIRPERSON CARTER: And just, Rose, if we could hold
8 that, because there is discussion we will be discussing later on,
9 a materials review task force to take up this very issue that
10 he's -- so rather than taking it up during the public comment
11 period here, I'd rather defer that to another point in the
12 agenda.

13 MS. KOENIG: Okay.

14 MR. SEGAL: Could you tell me when that would likely
15 be?

16 CHAIRPERSON CARTER: Yeah, sometime between 3:00 and
17 6:00. I mean just for information, this issue that you've raised
18 has been discussed, and the proposal is being looked at for the
19 Board to have a task force to talk about those areas where our
20 jurisdiction -- you know, the limits and how we, as Rick has
21 said, put a fence around the areas of materials.

22 So this is --

23 MR. SEGAL: Well, thank you for your attention.

24 CHAIRPERSON CARTER: Okay. Valerie Francis and then

1 James Hahn. Is Valerie here?

2 (No response.)

3 CHAIRPERSON CARTER: Okay. James Hahn. Okay, we're
4 making good progress. Diana Kilinowsky. Okay. Jim Pierce, and
5 no, Jim, you don't get twenty minutes just because there were
6 three people --

7 MR. PIERCE: Nor do I need twenty minutes.

8 CHAIRPERSON CARTER: Okay. And then on deck is Andrea
9 Karowe. And I apologize for butchering anybody's name.

10 MR. PIERCE: Greetings to everyone here to witness
11 these proceedings today. NOP USDA staff, members of the National
12 Organic Standards Board, and members of the press.

13 I'm Jim Pierce, self-appointed certifications of
14 Organic Valley Crop Cooperative in LaFarge, Wisconsin. This must
15 be about the sixth time I've had the privilege of addressing
16 NOSB, the first time for this particular Board.

17 I so much wanted to address you all at Austin for your
18 maiden voyage as a new Board. In fact, I had a pentecostal
19 public comment all prepared to be delivered by my good friend
20 Kelly Shea, but alas, a series of I Love Lucy-esque snafus
21 derailed that project.

22 Too bad, it was one of my finest caffeine induced
23 diatribes to date, urging you all to work together in solid
24 brotherhood. I have copies.

1 One year ago, in a deserted paranoid version of this
2 same city, I stood before the NOSB and presented a list of over
3 200 livestock materials that needed clarification. I used the
4 all too easy train wreck metaphor, which must have had a profound
5 effect, because here we are a year later.

6 The landscape has changed in that particular train,
7 although others may not. That particular train may not wreck at
8 all.

9 At the main meeting in Austin, you passed a
10 recommendation allowing most inerts and incidentals, as well as
11 materials on the processing list to be used in livestock feed.
12 Good job well done. That took most of the questioned materials
13 right off of our list.

14 Right around that same time, I got a call from Mark
15 Keating. Remember Mark Keating? Someday in the Organic Pioneer
16 Hall of Fame there will be a plaque devoted to Mark Keating.

17 Any way, Mark was all excited because he had opened a
18 bureaucratic door just far enough to slip his foot inside. That
19 door allowed us to submit streamlined petitions for the materials
20 that you are reviewing at this meeting.

21 Great news except for, A, although I had a lot of help,
22 it was up to me to write them. And, B, there were around two
23 dozen of these committee sponsored materials still on the list, a
24 list that kept changing as we struggled with what was truly

1 necessary for livestock and suitable for organic production
2 methods.

3 We were loath to submit a petition that would paint the
4 entire project in a bad light. In a very short time, I learned a
5 lot about materials I had little previous knowledge of. Things
6 with insidious names like Flunixin, Utorphanol, and Ismus
7 Subsulasemate.

8 More profound than that knowledge, however, was the
9 wonderful professionals that helped me along the way, Drs.
10 Karreman, Holiday, Engel, Detloff, and Snyder, Dan Leiterman and
11 Kelly Shea among others kept the project on track and the
12 information accurate.

13 Then another serendipitous thing happened. As the TAP
14 started coming out and the committee began conferencing, George
15 Siemon, Chair of the Livestock Committee and CEIEIO of the coop
16 where I tsar, invited me to listen in, present information, do
17 follow up research, take minutes, and summarize the committee's
18 collective opinions.

19 As a result, while I cannot vouch for any of the other
20 committees, I'm here to tell you these folks did their homework,
21 coalescing reasonable collective decisions in a very short time.

22 As a result of that experience, I can look you in the
23 eyes and assure you that those six people have thought long and
24 hard about every recommendation they're going to present. None

1 of these materials are being petitioned in order to shortcut
2 production or cover for bad animal husbandry.

3 Many of these materials being petitioned for organic
4 livestock use in medicines -- I'm sorry -- that our medicines
5 that an organic mother would not hesitate to administer to her
6 own child in an emergency. Some of these issues are not about
7 material itself, as much as larger sideline issues.

8 The fate of the organic aloe verae industry hangs on
9 your decision regarding Potassium Sorbate, and the question with
10 Epinephrin is not one of manufacture, but whether or not hormones
11 have any place in organics.

12 Tomorrow marks the culmination of the single most
13 interesting event in my career as certification czar. I'm going
14 to be like the kid watching the judges grade his 4-H steer at the
15 fair. The one I watch being born, weaned, nurtured and helped
16 grown into something to be proud of.

17 At the same time, I'm skeptically curious to watch you
18 deal with twenty-eight materials in two days. I've personally
19 seen this Board struggle for two days with Magnesium Sulphate,
20 and have seen five boiler additives be deliberated for five
21 years, or for two years.

22 But alas, I'm taking up valuable material review time.
23 So let me end with my standard caveat. While I have great
24 respect and admiration for all of your dedication and sacrifice

1 that each of you has given to this worthy endeavor, I do not envy
2 your job dealing with these difficult issues.

3 To each of you I say, good luck, God bless you, and
4 thank you.

5 MR. PIERCE: Okay. Questions for Jim.

6 VOICE: Could he say that again?

7 (Laughter.)

8 CHAIRPERSON CARTER: You did get that in the record,
9 Katherine. Okay. Thank you.

10 Andrea, and then after that, Eric Kinburg.

11 MS. CAROWE: Hello. My name is Andrew Carowe and I'm
12 the vice-president of certification services for Quality Issuance
13 International, a USDA accredited certifier. I would like to
14 present the following concerns and considerations for yourself
15 and the NOP staff that's present.

16 QAI, as an accredited certifier, take our role as
17 verification of the National Organic Standard very seriously. In
18 fact, the success of our accreditation has hinged on our ability
19 to verify these standards.

20 We are at the service of the NOP in the continued
21 monitoring of the U.S. organic market. In that vein, we ask the
22 NOP to refer all certification operations questions referring to
23 compliance to the certifier of that inquiring party.

24 Moreover, by allowing the certifiers to apply the

1 standard, the NOP will become more available for appeals when
2 applicants disagree with the certification decision.

3 Moreover, we would like access to the NOP staff for
4 clarification in unique situations that require further
5 interpretation of the rules. We feel that by putting that onus
6 on the certifiers, the NOP will become more available to these
7 functions.

8 In situations when clarification is provided to a
9 particular accredited certifier, we request that the
10 clarification be simultaneously posted on the NOP website.

11 We understand that this is a new regulation and that
12 there will be issues that will not be discovered until specific
13 situations arise. If the results of these evaluations are
14 posted, other certifiers will not have to reinvent the wheel.
15 Moreover, the action will empower the rule and its ability to
16 provide an even playing field.

17 We thank the NOSB and the NOP for clarification
18 regarding percent calculation. This posting will allow for the
19 consistent verification of organic processes under the USDA
20 accredited certifiers.

21 Recently, the NOP provided a clarification that allowed
22 Chlorine levels -- unallowable Chlorine levels in processed
23 water. QAI's first concern is that the clarification does not
24 reflect the intent of previous TAP discussions. Secondly, the

1 use of Chlorine at high levels will increase the chance of THM
2 contamination.

3 Because historically organic operations have
4 implemented systematic control at each step of the production,
5 the operations are less dependent on high levels of
6 disinfectants.

7 Further more, Chlorine use is not consistent with
8 international communities, or considered by international
9 community to be consistent with organic practices, as evident by
10 its prohibition under EEC 209291.

11 We ask that the NOSB, under your charge as material
12 advisors to the NOP, provide information and recommendations on
13 this subject to the NOP.

14 QAI would like to express our support for the allowance
15 of certification of grower groups. Based on the overall idea of
16 system based certification, as opposed to product based
17 certification, we feel that this is consistent with the intent of
18 the regulation.

19 Very recently, a recommendation was posited by the NOSB
20 regarding origin of livestock. In order for the organic
21 community to provide thorough comment with complete rational and
22 impact data, a full sixty days is required.

23 The posting provided less than this required time
24 period. We ask the NOSB to extend its posting on this very

1 critical recommendation.

2 Lastly, it has come to our attention that Kelp may be
3 re-listed under the 205.605 section. We contend that Kelp is an
4 agricultural product that is available through wild craft harvest
5 as organic. We ask the NOSB to keep the material in the 205.606
6 list, with requirements for commercial non availability.

7 I thank you for the opportunity to give these comments.
8 If I can provide any further assistance, I would be more than
9 happy to do so.

10 CHAIRPERSON CARTER: Great. Thank you, Andrea. Just
11 one comment on your comments regarding the posting of some of the
12 issues on the web.

13 That is one of the things that's in progress right now,
14 is to talk about how we create that. And I don't know if Barbara
15 or Rick may talk about that during their remarks.

16 Questions. Yeah, Jim.

17 MR. RIDDLE: Yeah, Andrew, I really appreciate your
18 comments. Do you have them in writing that you --

19 MS. CAROWE: I do.

20 MR. RIDDLE: -- can submit to us?

21 MS. CAROWE: Yes, I have one copy here, but I could
22 send them later.

23 MR. RIDDLE: I would appreciate that.

24 MS. CAROWE: Okay.

1 CHAIRPERSON CARTER: Any other questions? Comments?
2 Okay. Eric Kinburg. And then, after that, Jess Clerk.
3 Welcome, Eric.

4 MR. KINBURG: My name is Eric Kinburg. I've been an
5 organic farmer for thirty years plus, and certified for twenty
6 years. I appreciate the work the Board has done and Richard and
7 Keith and the National Organic Program without question.

8 I would like to compliment both of you for continuing
9 the process of implementing the Organic Foods Production Act of
10 1990. The task is somewhat thankless, as you must know by now.

11 And the demands, multi tasking across many areas of
12 production, handling labeling and creation of a trustworthy
13 system of securing customers, our customers, that they are truly
14 getting what they are paying for. Nonetheless, we are gathered
15 together again to make some needed improvements, I hope.

16 The first thing I'd like to speak to really has to do
17 with textiles and organic fibers. As you probably know, or maybe
18 you've heard already, the organic fiber market, exclusively
19 cotton, grew from 1990 to 2001 from zero production -- hi George
20 -- to half a billion -- one and a half billion U.S. sales and
21 about three billion worldwide, and that's exclusively in cotton.

22 Now we see organic linen, wool and some colored cotton
23 in the marketplace that's organic. We have formed a small
24 business, myself and a couple of other people, to expand into

1 organic silk, cashmere, hemp, rami, those kinds of things.

2 Our base of operations, People's Republic of China.

3 Our markets are worldwide. I just want to bring to your
4 attention that the major limitation to expansion, which would
5 benefit certified organic farmers wherever they be, as well as
6 handlers, as well as the ability to build the impression of
7 organic in the marketplace, the limitation is organic fibers
8 obviously lack post harvest handling organic standards.

9 I would just really strongly encourage the Board to
10 take suggestions, whether they come from trade organizations, or
11 they come from individual corporations, or they come from groups
12 of producers, meaning farm producers, or handling operations, and
13 try to move in to bring us somehow up to date and leading, as
14 well as that, in this sector.

15 The People's Republic of China has had organic farm
16 crop and livestock production, organic food processing, and
17 organic textile manufacturing standards since 1995.

18 Under the People's Republic of China's organic
19 standards, silkworms are considered a livestock like cashmere,
20 goats, camels, sheep, and so forth, and conform to the
21 generalized livestock standard with a special standards for
22 silkworms themselves.

23 I would like to encourage the Board, as well as the
24 Livestock Committee, to really consider these aspects of

1 silkworms, albeit an insect not usually thought of as livestock,
2 to be included in their consideration and recommendations to the
3 USDA NOP as part of the program in the future.

4 Actually, it's quite interesting because silkworms can
5 be raised anyplace in the world. They're not exclusively to
6 China or anyplace like that. They were tried all over the United
7 States for many, many years and they still could be raised
8 effectively here.

9 Now, going on to another thing, I just have this --
10 maybe the Board or Richard or somebody can clarify, but under the
11 Organic Foods Production Act, if we remember back, the operations
12 that label and sell products is made with organic ingredients,
13 basically were exempt from being certified.

14 I'm being very explicit about this being certified.
15 I'm still at a state of confusion and the scope document even
16 confuses that more. As far as I can see, there's an implication,
17 if not an outright statement, that an operation exclusively and
18 only labels and packages products is made with organic
19 ingredients, has to somehow meet the standards of a quote,
20 unquote, organic handling operation.

21 I don't see how that's possible. I'm just asking the
22 Board, maybe you'll answer in a few seconds. I'll finish another
23 couple of things. What is the real status of this thing?

24 It doesn't make sense or make it perfectly clear why,

1 because at the moment whatever product touches the organic
2 product, it's not organic any more. So the product that's being
3 put out and the flow outward is obviously not certifiably
4 organic. And so why would you certify an operation exclusively
5 that is doing that kind of production, would be my question.

6 I would also, just having to do with public comment,
7 really encourage the Committees of the Board, as well as the USDA
8 NOP, that when they're considering draft proposals that they
9 circulate them to publications or organic organizations, really
10 in advance, so that there can be public comments back to the
11 committees.

12 You know, it's about the best way to do it at this
13 stage. There used to be a mail out list, but I never -- somehow
14 I got dropped from that, or it doesn't exist, so I suggest you do
15 it that way.

16 MR. RIDDLE: Time.

17 CHAIRPERSON CARTER: Okay. Question?

18 MS. BURTON: I have a comment.

19 CHAIRPERSON CARTER: Yeah. Kim.

20 MS. BURTON: It seems that over the past couple of
21 weeks, at least from the Processing Committee's standpoint, and
22 also from the industry, there's a lot of confusion on that made
23 with label, so I'm hoping that we can have some discussions,
24 while we're here, from a Board and with Richard, just to talk

1 about issues like that.

2 MR. MATHEWS: What is the confusion on the made with
3 label?

4 MS. BURTON: There's confusion on how it should be
5 labeled, what materials go into a made with, do they have to be
6 on the national list, and so we just need to start some
7 dialoguing, get some clarification on that. And now this
8 one about being a certified entity.

9 MR. KINBURG: Also Interpretation 2 or whatever in
10 reading some of the quote, unquote, optional categories could be
11 -- it's just misunderstood at this point. I think we need to
12 clarify.

13 MS. BURTON: So hopefully, by the end of this week, we
14 can have something to tell the group as far as how we're reading
15 it.

16 CHAIRPERSON CARTER: Rick.

17 MR. MATHEWS: Well, for starters, anybody who wants to
18 produce, manufacture, process, whatever you want to call it, a
19 made with product, you must be certified. And the material must
20 be on the national list. That's the decision that was made when
21 the rule was being promulgated. It was carried throughout the
22 first proposal, the second proposal, and into the final rule.

23 The debate was centered over the interpretation. I
24 know which section of the Act you're talking about. There was a

1 great deal of debate. The attorneys determined that the Board
2 was, and well, the Department was, in complete adherence to the
3 Act to require that people who labeled their product as made
4 with, they must be certified under the national organic
5 standards.

6 MR. KINBURG: Certified to the standards of the
7 program.

8 MR. MATHEWS: Certified to the standards of the
9 program, yes.

10 MR. KINBURG: And the standards of the program say
11 that if you're going to do a ninety-five and five, if you're
12 going to do a hundred percent, you have to meet these standards,
13 but what does it say for made with?

14 When I meet the two together --

15 MR. MATHEWS: That's why you have regulations.

16 MR. KINBURG: Well, I'm not debating regulations. What
17 I'm talking about is that does it -- first, it's inconsistent
18 with the statute.

19 Number two is that I don't understand, Richard. What
20 I'm really trying to understand is that I have a product and I
21 want to mix it, take it -- take a food product that's only got
22 fifty-two percent organic products, maybe four different
23 ingredients, whatever, I've got that together.

24 Now, I have to petition the rest of that organic so I -

1 -

2 MR. MATHEWS: No. If you've got a fifty-two percent
3 product, you fall below the seventy percent level.

4 MR. KINBURG: So that's what I'm trying to say.

5 MR. MATHEWS: So the seventy percent level, any
6 product below the seventy percent level does not have to be
7 produced by a certified handler.

8 MR. KINBURG: Okay. So the differentiation is seventy
9 percent.

10 MR. MATHEWS: But the labeling of that product, when
11 you use the word organic it can only be in the ingredients
12 statement. In other words, the word organic can occur on no
13 other panel or label for that product.

14 MR. KINBURG: Got it.

15 MR. MATHEWS: So that there's really four things to be
16 concerned with. If you look in the Regs, there is a requirement
17 for what you have to do to label as 100 percent.

18 There's requirements for what you have to do to label
19 as organic, and there's requirements for what you have to do to
20 label as made with. Anyone producing any product to be labeled
21 in any of those three ways has to be certified as a handler.

22 The fourth area that is addressed in the Regs, is that
23 which is below seventy percent. Those products do not have to be
24 produced by a certified operation, but they are, by regulation,

1 limited to using the word organic on the ingredient panel.

2 MR. KINBURG: Okay. Just one question. Seventy-two
3 percent, I get to seventy-two percent. I mean I understand the
4 whole --

5 MR. MATHEWS: Then you have to be a certified
6 --

7 MR. KINBURG: Okay. Well, then, what I'm asking is
8 the logic. Remember there's also a corollary which says any
9 products you would use -- correct me if I'm wrong -- in that
10 remaining, we'll call it whatever it is, twenty-eight percent,
11 has to be on the national list?

12 MR. MATHEWS: Materials used. If you're going to use
13 the word organic anyplace other than the ingredient panel, you
14 can only use those materials that are identified on the national
15 list.

16 MR. KINBURG: Okay. Let me just continue with that
17 question. So if I choose to make a product that's eight-two
18 percent organic, but only put it on the side panel, the
19 ingredient panel -- question again, I'm not trying to get around
20 anything -- you don't have to be certified by what you just said.

21 MR. MATHEWS: I believe that's correct.

22 MR. KINBURG: Okay. So we're clear on that. If
23 you're at seventy-two percent, and you choose to use it,
24 evidently you're saying on the front, on the principal display

1 panel, all I'm really asking, point blank question, is are mixing
2 three other just crop production items, blueberries that weren't
3 organic or whatever, into it, technically I could not do that
4 without petitioning and having it put on the national list?

5 MR. MATHEWS: Blueberries?

6 MR. KINBURG: Well, we've got processing aids, food
7 additives, and ingredients. So you clarified to me what I can
8 and cannot use that are not organic, without having them on the
9 national list above seventy percent, if you would.

10 MR. MATHEWS: You can have any natural and any
11 synthetic that is allowed on the national list.

12 MR. KINBURG: Okay. Well --

13 MR. MATHEWS: There is no -- for a made with product,
14 there is no commercial availability requirement. So any
15 agricultural ingredient can be used, up to a maximum of thirty
16 percent in a made with product.

17 CHAIRPERSON CARTER: Okay. Hang on a second.

18 MR. MATHEWS: Yeah, it doesn't have to be on the
19 national list.

20 MR. KINBURG: Okay. I'm just trying to be clear.

21 CHAIRPERSON CARTER: George, you had a --

22 MR. SIEMON: Well, I'm not sure, but is the line the
23 non agricultural? If it's an agricultural product, it doesn't
24 have to be on the list. If it's a non agricultural, it has to be

1 on the list. Is that the line? He's asking where the line is,
2 right?

3 MR. KINBURG: Uh-huh.

4 MR. MATHEWS: Okay.

5 MR. SIEMON: And is that the line? If it's a non
6 agricultural material, it has to be on the list?

7 MS. KOENIG: That's how it's written --

8 MR. MATHEWS: That's your question, right, Eric?

9 MR. KINBURG: That's right.

10 MR. MATHEWS: The line is --

11 CHAIRPERSON CARTER: I don't think this is the time,
12 but --

13 MR. SIEMON: Oh, wait, but I want to hear this.

14 MR. MATHEWS: The organic ingredients have to comprise
15 at least seventy percent

16 MR. KINBURG: Got it.

17 MR. MATHEWS: You've got thirty percent that can be
18 made up with materials that are either agricultural ingredients,
19 or ingredients that are on the national list.

20 MR. KINBURG: In other words, in my case -- I just
21 want to ask point blank. Even though texture was not considered,
22 I need Lycra at two percent, so I could petition for Lycra to be
23 on the national list?

24 MR. MATHEWS: I don't know the exact page in the

1 preamble, but the only --

2 MR. KINBURG: Don't worry about that.

3 MR. MATHEWS: -- preamble, we talk about the fact that
4 products, textile products can be labeled as made with, and you
5 know, you can say made with organic cotton.

6 MR. KINBURG: Okay. I appreciate that very much.

7 CHAIRPERSON CARTER: Yeah. And it's really spelled
8 out in 301 there.

9 MR. KINBURG: Yeah. I just wanted to hear it from the
10 gospel.

11 CHAIRPERSON CARTER: Okay. Next up, Jess Clark. Then
12 Donald Loveless. Okay. Making progress again here.

13 John -- oh boy -- Emerogga. And then Kelly Shea.

14 MR. EMEROGGA: Good morning. My name is John
15 Emerogga, and I'm the product manager at Amfak Corporation, and
16 my request here is with respect to the Tetrahydro -- alcohol
17 petition that was submitted on May 26th. I sent an e-mail out to
18 the Materials Committee.

19 If you don't mind, I'll just go ahead and read that for
20 the benefit of everybody else who's out here. During the course
21 of my conversation today with Ms. Toni Strother, USDA, it has
22 become apparent that our THFA petition dated March 26th, will not
23 be ready for review till September 17th through 19 meeting in
24 Washington.

1 Is that still the case?

2 FEMALE VOICE: Yes.

3 MR. EMEROGGA: Despite assurances received from you,
4 as yet the time of our application -- this causes a huge concern
5 for our company for all three of our products, not only in terms
6 of how we manage inventory or explain the delay to growers, but
7 also with respect to the product handling logistics and the
8 distribution channel.

9 We have already suffered from loss of sales because of
10 our competition claiming loss of the organics listing status on
11 all of our three products, and have been besieged with calls
12 asking us to explain why we are not on the list of approved
13 ingredients any more.

14 We feel that unless a decision is made prior to
15 implementation of the National Organic Rule on October 21st, we
16 will suffer even more economic loss, as a result of this delay
17 and irreversibly jeopardize future sales of this product line.

18 I must add that this product is pretty critical to us
19 because it's one of our flagship organic products that we are
20 trying to nurture and develop and certainly casts a lot of
21 dispersion amongst my colleagues, trying to keep this product
22 line afloat.

23 It is indeed unfortunate that we missed a meeting and
24 now, at this late hour, we're faced with the reality of missing

1 the September window as well. However, in the light of our
2 hardship, my request to the committee would be to, given that the
3 TAP reviews will be coming along -- have they come along at all,
4 Kim, the Tap reviews, because you were expecting them to come --
5

6 MS. BURTON: No, they did not come.

7 MR. EMEROGGA: Okay. So I will skip that section
8 there.

9 But still my request to the Board here is that the
10 petition be qualified for an expedited review for THFA these
11 reasons. The THFA petition is a very straight forward and
12 complete petition involving an inert ingredient.

13 Armery has already conducted their own internal
14 assessment and have recommended to EPA that THFA is acceptable
15 for organic use and, as such, be reclassified on the List 4
16 category, thereby automatically putting it into the acceptable
17 list.

18 It is my humble opinion that the Committee's time is
19 well spent on comprehensively reviewing active ingredient
20 petitions and less emphasis, that is time, be made on inert
21 ingredient petitions.

22 All evidence known about this inert point to the fact
23 that it is environmentally acceptable, is of similar toxicity as
24 to benign solvents already approved on the EPA Inert 4B list, for

1 example methanol and ethanol.

2 THFA is made from recycled corn and sugar cane waste
3 materials, and is used at very, very low rates, that is .0005
4 ounces of THA per square foot. THFA is also currently
5 established by FDA. It's on the APHIS list as a direct food
6 additive.

7 EPA has exempted THFA from the requirement of food
8 tolerances, and expected that when reviewed, when EPA gets around
9 to doing it, EPA will be reclassifying THFA to a List four
10 category from a List 3, from where it resides right now, because
11 the various risk assessment is completed by governmental agencies
12 based on toxicological data of identified no concerns for human
13 health, or any environmental or non target risks.

14 In summary, I feel that the inclusion of this unique
15 and safe solvent should be approved, and put on the national list
16 as soon as possible, not only for us, but also others who will
17 consider using this unique solvent for formulating the products.

18 Thank you. And with that, I would like to get some
19 input back as to where we stand on this, and how, somehow, we can
20 be helped.

21 CHAIRPERSON CARTER: Okay. Kim.

22 MS. BURTON: Right. Well, I go through a process, a
23 material review process, and I'm not sure if you attended any of
24 the other meetings, but there's a -- and I'll go through this

1 afternoon.

2 There is a flow chart on how many days it takes each
3 staff of a TAP review. Your particular petition was received by
4 NOP, forwarded to me, forwarded to the petitioner, the
5 contractors. They received it on May 14th, I believe.

6 That's a very short window for them to do the work that
7 they are required to do for a TAP. And they, quite simply, just
8 did not have enough time for your material. So I would encourage
9 you to stick around so you can go through that.

10 There are some other things and I will talk to Emily
11 about that. I know that your material is currently on a List 3,
12 potentially going to List 4, so there might be some avenues there
13 that we can look at.

14 MR. EMEROGGA: Is there any way that we could
15 -- this petition will be --

16 MS. BURTON: I don't think you want to expedite a TAP
17 review, because you want it to be thorough. I mean you want the
18 material to be reviewed, and you want the Board to have a good
19 idea of what they're reviewing. You don't just want to expedite
20 something just to get it through the process.

21 MR. EMEROGGA: It goes to a larger point that I was
22 trying to make as well, which is you know the ingredients. I
23 think there should be a second tier where I mean you don't apply
24 the same scrupulous methods that you would apply for --

1 MS. BURTON: Perhaps.

2 MR. EMEROGGA: -- acting --

3 CHAIRPERSON CARTER: Okay. Yeah, Rick.

4 MR. MATHEWS: At this point, I think it's important to
5 point out that the people that we've contracted with to do these
6 TAP reviews are doing nothing wrong.

7 There's a lot of criticism on TAP reviewers that we
8 don't get reports in time. I'd like to point out that the
9 contract allows, and I'm not sure of the exact number of days,
10 but it's something like 260 days to fulfill their obligations
11 under their contract with the Department of Agriculture.

12 That time frame is there to ensure that the TAP is done
13 thoroughly, and that we have a quality product. Now, you're
14 going to hear here today, or over the next three days, complaints
15 about some TAP reviews.

16 As long as we continue to push the researchers to get
17 it done in less than the time allotted, you're running the risk
18 of problems. So I think it's important for everyone to know that
19 there is a process, it's a long process.

20 It's not a matter of somebody submitting a petition and
21 getting an answer within a couple of weeks. It just does not
22 happen.

23 I'd also like to point out that we are now completing
24 the twenty-first month of the implementation process, and it's

1 real interesting to me that the contract that we had for two
2 years ago with OMRI, we had to carry it over for another year
3 because of a kind of unreasonable demand on the people who have
4 been challenged with fulfilling our contracts.

5 CHAIRPERSON CARTER: Rose.

6 MS. BURTON: But it does -- I guess the issue that I
7 think the gentleman is presenting, and that I think we need to
8 deal with, is that there's two programs that are kind of
9 contingent with this liaison-ship between EPA and the NOP.

10 And from my limited talkings to the people at EPA,
11 there just seems to be not the effort or the energy right there
12 to be -- there needs to be some pressure put on and I think some,
13 via a task force or something, and I mentioned it in an e-mail,
14 to get these issues with the EPA on their agenda, you know, as a
15 priority.

16 Because these types of issues, I mean we could be
17 saving ourselves a lot of money in TAPs if that list is known and
18 this particular product is put on this. Why we don't even have
19 to go there, as far as that contract. So it seems like that is a
20 very logical step for us to take and make sure that there is this
21 communication between those agencies.

22 MR. EMEROGGA: Precisely. And I don't know how
23 expensive those TAP reviews are. I'm sure they're not cheap.
24 For something like -- I think that's like -- something like the

1 THFA, in my humble opinion again, it's not a very big deal at
2 all.

3 And if EPA got around to doing it, it's on the APHIS
4 list, it's a direct food additive and we're not putting out some
5 -- you know, it's not going to stay there on the list.

6 For example on -- it's on and on and on. And I think
7 it shouldn't even come to this level of trying to do a TAP review
8 on an ingredient, because I think the active ingredients are the
9 way, you know, the effort needs to be emphasized. That's my
10 larger point, so --

11 MR. MATHEWS: Yeah. And that's just -- I mean just to
12 respond, I mean this again comes back to this whole process of
13 setting up this task force. And what we're talking about doing
14 with that is having a group that includes representatives from
15 EPA, FDA, AFCO, some of the others to help us really kind of get
16 our arms around this, this issue that you're raising.

17 MR. EMEROGGA: All right. Thank you.

18 MS. BURTON: A question of clarification. Are you
19 saying that this materials task force, besides processes, would
20 also be dealing with -- because I see the issues as being
21 separate, that one task force cannot look at these EPA issues and
22 also the whole area of materials processes.

23 I think it's way --

24 CHAIRPERSON CARTER: I think we can have some

1 discussion on that when we get into that, because I -- you know.

2 MS. BURTON: And that's the -- the task force was
3 something that's just come up as a discussion in the last --
4 actually the last Executive Committee, so we really don't have an
5 agenda other than we are seeing materials come through that
6 should or should not be petitioned, and we are wasting the money,
7 so we need some clarification before we move forward with it.

8 MR. EMEROGGA: Can I get a commitment from you guys
9 that we'll get this thing out of the way before the NOP kicks in?
10 Because I mean for us --

11 MR. MATHEWS: I think -- and I appreciate, you know,
12 because there are the issues, and there's the immediate issue
13 that affects companies like yourself or growers that are faced
14 with that.

15 As a Board, and I think as a program, you know, our
16 directive is to give the best and the most thorough reviews to
17 make good decisions, rather than quick decisions. And I know
18 that that creates short term, and we're doing our best to try and
19 get as much, you know, information and stuff through by October
20 31st.

21 But I think we would be doing the whole organic
22 community a disservice of trying to just drive some decisions to
23 have them done by October 21st, to make bad decisions, or
24 decisions based on bad information.

1 So that's really a non answer to your question. The
2 answer is we'll do our best to get it done, but some of this is
3 just -- we've got to be thorough.

4 CHAIRPERSON CARTER: I mean I appreciate that, but
5 again, we're from the other end. We're trying to make sure the
6 business is running and what do we do with all the people
7 calling? I mean it's a tough position for us to be in and we've
8 done everything we can.

9 If there's something else we can do to expedite it, let
10 us know and I'll be more than happy to spend some of my resources
11 and some of our time trying to help you guys out.

12 But commercially, it's a very, very difficult thing for
13 me to justify a product line that's sitting out there and
14 distributors are saying, well, we're not going to stock any more,
15 and after this what happens because we can't sell this. We have
16 to -- it's a mess. So I certainly appreciate if you could help
17 us out here.

18 MR. MATHEWS: Okay.

19 MR. EMEROGGA: Thank you.

20 CHAIRPERSON CARTER: Okay. Next up is Kelly Shea and
21 then, after that -- I'm a little confused here. Is Chris Elie --

22 MS. SHEA: I'm all of the above.

23 CHAIRPERSON CARTER: You're all of the above. Okay.

24 MS. SHEA: Yeah.

1 CHAIRPERSON CARTER: So your multi personalities are -

2 -

3 MS. SHEA: Imagine that.

4 CHAIRPERSON CARTER: And then Albert Strauss.

5 MS. SHEA: That's me too.

6 CHAIRPERSON CARTER: Right, Kelly Shea. Okay.

7 So I'm just trying to figure out who's -- you've got
8 about five people here --

9 MS. SHEA: I can explain it to you in my comments, if
10 you'd like.

11 CHAIRPERSON CARTER: Well, I'm just trying to see
12 who's on deck here because you're on deck for about five times.
13 Thomas --

14 MS. SHEA: Go after Harriet.

15 CHAIRPERSON CARTER: Tom Harding. So he is on deck.

16 MS. SHEA: Okay.

17 CHAIRPERSON CARTER: Okay. Go ahead, Kelly.

18 MS. SHEA: Good morning. My name is Kelly Shea and
19 I'm speaking on behalf of the OTAQAC Livestock Committee this
20 morning.

21 On behalf of the Committee I thank you for the
22 opportunity to comment. I will be speaking at length for other
23 members of the Committee.

24 Chris Elie with Applegate Farms, Albert Strauss of

1 Strauss Family Creamery, Matthew Mole of Vermont Organic Fibers,
2 and Harriet Behar with the Independent Organic Inspector's
3 Association, have signed up for public comment and listed me as a
4 proxy, so that the Livestock Committee's comments could be read
5 in full.

6 Though I understand it was a glitch, we would like to
7 point out that the origin of Livestock recommendation was not
8 posted until August 15th, and thus has not followed the NOSB
9 Board policy of sixty days for public comment.

10 We recommend that any voting be delayed, and we are
11 willing to contribute further with specific language suggestions.

12 Our comments today deal with the dairy herd replacement
13 clause, health care materials for young stock, as well as the
14 need for specific clarification language surrounding fiber and
15 non food items produced from livestock.

16 Okay. Some basic information to begin, and for some of
17 you this is pre-kindergarten, but the gestation period for cattle
18 is nine months. Okay, just like people. The term calf is used
19 to describe baby bovine, regardless of sex.

20 A female calf is called a heifer until she gives birth
21 for the first time. Then she's a cow. Okay? And most heifers
22 give birth for the first time at about twenty-four months of age,
23 and then begin to give milk. So for people not familiar with
24 livestock, maybe this will help you understand our comments a

1 little more fully.

2 As the NOSB has identified, there's a lot of confusion
3 and a lack of clarity in the rule surrounding the origin of dairy
4 stock. The conflict is in 205.236(a)(2), and 205.236(a)(2)(iii).
5 205.236 is the section on origin of livestock.

6 The rule allows for the conversion of non organic dairy
7 stock to organic status under 205.236(a)(2) with a twelve month
8 conversion period. This is consistent with OFPA.

9 The rule then appears to require organic management
10 form the last third of gestation for all young dairy stock born
11 on the organic farm in 205.236(a)(2)(iii). This has previously
12 been the position only for slaughter stock.

13 Further confusion is created by this apparent
14 requirement for organic management from the last third of
15 gestation, specifically being a requirement for those who take
16 advantage of the whole herd conversion clause, which is (i), (ii)
17 and (iii). Those are the parts of that clause.

18 So the rule is layered this way. You've got the origin
19 of livestock requirement, then an exception for dairy animals,
20 then an exception to the dairy animal exception for a whole herd
21 transition.

22 The requirement for organic from the last third of
23 gestation is under the whole herd transition exception. So yes,
24 it is very confusing.

1 Prior to the final rule, and prior to the development
2 of OTA's American Organic Standards, and it's an industry
3 generated standard that was published in 1999, and I'll just call
4 it AOS, certifiers followed OFPA and NOSB recommendations.

5 OFPA and NOSB recommendations clearly differentiated
6 between production stock those raised for milk, and wool, and so
7 on and so forth, and slaughter stock, as did the previous
8 versions of the NOP rule.

9 Though certifiers varied in their requirements for
10 production, non slaughter animals raised on the farm, when it
11 came to feed requirements, they generally allowed medications
12 with a designated withdrawal period. Based on NOSB
13 recommendations, antibiotics were prohibited for all slaughter
14 stock that were marketed as organic meat.

15 Therefore, there were medications allowed on young
16 production non slaughter stock that were never allowed on animals
17 to be marketed as organic meat.

18 The NOSB policies on antibiotics for production stock
19 were modified at the March 1998 meeting in Ontario, California.
20 At this meeting, the NOSB recommendation changed from allowing
21 antibiotics with a ninety day withdrawal period, specifically on
22 dairy stock, to permitting use only in production stock prior to
23 twelve months before the products were sold as organic.

24 So the NOSB went from dairy specific to production

1 specific, and from ninety days to twelve months. At that
2 meeting, the NOSB also reaffirmed its 1994 Santa Fe, New Mexico
3 position on replacement stock.

4 And I quote. "Replacement dairy stock must be fed
5 certified organic feed and raised under organic management
6 practices from the time such stock is brought on to a certified
7 organic farm, and for not less than the twelve month period
8 immediately prior to the sale of milk or milk products."

9 Other health care materials were never specifically
10 addressed by the NOSB. And certifiers continued to offer
11 different policies on young stock management. And many had made
12 some progress in eliminating use of most antibiotics for young
13 stock.

14 However, the NOSB policy left the inconsistent standard
15 that was replicated in the final rule, allowing the use of non
16 organic, conventionally managed replacement stock while on farm
17 raised organic stock is held to a higher standard of organic.

18 In simpler terms, the inconsistency is that the final
19 rule requires an organic dairy replacement animal born on the
20 farm to be under the same organic management practices for
21 twenty-four months before it gives milk as a lactating cow.

22 An organic dairy replacement animal purchased and
23 brought on to the farm would be under those organic management
24 practices for twelve months. And we think it's time to fix this

1 loophole.

2 We interviewed a number of producers around the U.S.,
3 and a New York organic dairy producer described the problem this
4 way, and I'm going to quote.

5 As a dairy producer, in regards to the origin of
6 livestock subject, I suggest the following thoughts. And when I
7 say I, I'm speaking as the New York producer.

8 Number one, a farmer who raises his calves organically
9 from the last third of gestation will incur a much greater cost
10 for bringing replacement animals into production.

11 An average analysis for this -- and you don't have to
12 take notes on this, because I've made comments of my present --
13 or copies for everyone -- an average analysis for this is grain
14 costs for two years at \$350. The cost for milk input, organic
15 milk input up to eight weeks of age \$140.

16 The cost for roughage, using an average of fifty pounds
17 a day over two years, would be \$2,160 per animal for roughage.
18 Total cost to get an animal into production organically would be
19 approximately \$2,650 per animal, not including mortalities, vet
20 bills, and labor.

21 Number two, a farmer who purchases in animals from non
22 organic sources, and assuming that they're purchasing yearling
23 heifers, will have the following costs.

24 The average cost for the yearling at the sale, at

1 market price, and this was March of '02, prices have gone up
2 since then, was \$800 to \$900. One year's worth of feed at \$1,080
3 for roughage, and \$175 for grain, would make the total cost of a
4 purchase replacement \$2,105.

5 I continue to quote. "You can see it is cheaper for
6 the organic producer to purchase in yearling heifers, which
7 deviates from the organic goal. Furthermore, animals that are
8 purchased have all been treated for worms, viruses, dysentery,
9 etc., which the organically raised heifers did not receive."

10 The farmer then goes on to describe a scenario that
11 could allow a producer, under the direction of a veterinarian, to
12 administer medications to a young stock -- to their young stock
13 during their first year of life on the farm, and not have the
14 animals excluded from organic production.

15 To quote the farmer again, "My reason being that this
16 would give the person raising the animal organically from the
17 last third of gestation the same leverage that a person
18 purchasing their animals from the outside realm has. Also, this
19 would encourage more people to stay with the organic process,
20 rather than purchasing outside animals."

21 The OTA Livestock Committee reviewed various pre NOP
22 certifier requirements for dairy, and I also have an eight page
23 document I'll give you that is our review of certifier practices
24 around the world in preparation for our meetings that led to this

1 document.

2 The requirements ran the gamut from the least
3 stringent, being ninety days -- organic treatment ninety days
4 before milk for all animals, whether born on the farm or not, to
5 the most stringent, which was organic from the last third of
6 gestation, with variances for medications.

7 Producers with animals that never needed to be
8 medicated with a substance that's prohibited for slaughter stock
9 had the value added meat market as a reward at the end.

10 The producers who needed to treat an animal, were able
11 to keep that calf on the farm and in the herd, though it could
12 never be sold as organic slaughter stock. So we wonder why it
13 makes sense to treat a one month old calf for a respiratory
14 problem, then have to sell her off the farm, go to the public
15 market to buy another calf, which is even less organic, and
16 transition that calf for twelve months until it is organic.

17 Why not allow the one month old calf on the farm to be
18 treated with a medication, and then transition for twenty-three
19 months prior to giving organic milk?

20 The OTS position, as established in AOS, is in support
21 of organic from the last third of gestation. AOS had a phase in
22 period designed to allow for review and inclusion of additional
23 health care materials needed for young, non slaughter stock
24 management.

1 This position, we all need to understand, is not merely
2 a dairy position, as historically certifiers differentiated
3 between animals raised for products such as milk, wool, mohair,
4 so we're including but we're not limiting ourselves to cows,
5 goats, sheep, alpacas, llamas.

6 Those animals were differentiated from animals raised
7 for slaughter which, as I noted, were subject to a stricter
8 prohibition on medications and antibiotics. The phase in period
9 proposed an AOS was a compromise to allow for transition to total
10 organic management. And by that I mean the fee and the living
11 conditions of young stock.

12 At the time, AOS provided four years for producers to
13 acquire the skills necessary to raise their organic stock on the
14 farm. AOS also placed a limit on the number of conventional
15 replacement animals to not exceed more than ten percent of the
16 milking herd, with the caveat that certifiers had the option of
17 granting variances to this in the case of natural or manmade
18 disasters.

19 The recommendation currently proposed by the NOSB
20 Livestock Committee wants producers to manage young stock
21 organically immediately, while placing no limits on the amount of
22 non organic replacement stock that could be brought on to the
23 farm.

24 What do you think -- I've got twenty-five minutes

1 altogether, and I've read this five times and never taken more
2 than eighteen, so I know I'm not done yet, sir, with all due
3 respect.

4 CHAIRPERSON CARTER: The question, Kelly, is the
5 ability of somebody to just sign up, getting a number of proxies
6 here, and to list other names. Because that kind of --

7 MS. SHEA: I didn't list other names. Every one of
8 those people directly e-mailed the NOP office and requested to be
9 placed --

10 CHAIRPERSON CARTER: Okay, so it is in writing?

11 MS. SHEA: -- on -- yes, sir, it's all in writing.

12 CHAIRPERSON CARTER: Okay. Then go ahead and proceed.

13 MR. RIDDLE: Ten more minutes.

14 CHAIRPERSON CARTER: Okay. If that's in writing, then
15 go ahead.

16 MS. SHEA: It's all in writing and I only have three
17 more pages. And I don't know about you, but --

18 CHAIRPERSON CARTER: No, this is --

19 MS. SHEA: -- people think that this is a crucial
20 issue.

21 CHAIRPERSON CARTER: Yeah, go ahead, Kelly.

22 MS. SHEA: Our Committee has spoken with producers
23 across the U.S., who have told us that the choice will be simple.
24 They will sell off their organic young animals and buy in non

1 organic stock.

2 Unfortunately, the NOSB Livestock Committee's
3 recommendation of July 11th does not solve the problem. We must
4 recognize two things. Number one, this is not a dairy only
5 issue. This is also a non slaughter stock issue.

6 And, number two, this is directly tied to the issue of
7 health care materials needed for young production stock. It will
8 be difficult for producers who have not previously had the
9 requirement for all organic feed from birth to source and pay for
10 organic feed for their young stock.

11 In many parts of the U.S. organic cat formula and
12 organic cat feed is not available, but we do feel in time that
13 that problem is surmountable. The materials issue is not. We
14 must work together to develop a solution to this vexing problem.

15 Please realize that over the last eighteen months
16 during implementation, organic producers have not been following
17 a consistent interpretation of the requirements for origin of
18 livestock. They've been waiting to see what the interpretation
19 of the rule will be.

20 In our research, we found a number of producers and
21 certifiers who deduced, according to a literal reading of the
22 rule, that the requirement for organic management from the last
23 third of gestation only applied to the animals transitioned under
24 the dairy herd clause.

1 So if instead of using the herd conversion clause,
2 their cattle were fed with a hundred percent organic feed for the
3 twelve month transition, producers and certifiers thought they
4 would be exempt from the requirement to raise their on farm
5 replacements organically from the last third of gestation.

6 Crucial point to the Board. This was not to avoid the
7 cost of organic feed, nor to avoid humane living conditions. It
8 was to be free to care for the health of their young stock as
9 they saw fit, within the bounds of organic philosophy as they saw
10 it.

11 Another crucial point. In the case of animals that
12 have been treated with materials that may not be allowed after
13 October 21, producers expect that these animals will be grand-
14 fathered in as approved under the old standards of their now
15 accredited certification agencies.

16 To this point I remind you, twelve months is clearly in
17 OFPA. It has existed and still exists within many certification
18 agencies that are accredited. Slaughter and non slaughter have
19 always been differentiated.

20 As you deliberate these issues as a Board, please keep
21 in mind that 205.238(b)(7) in the NOP's livestock health care
22 practice standards, states that it is prohibited to withhold
23 medical treatment from a sick animal in order to preserve its
24 organic status.

1 This is reiterated in OFPA and in every private
2 certifier standard. It is important to provide a workable
3 solution as soon as possible to aid producers in meeting this
4 humane obligation to not withhold medication from a young animal
5 to preserve its organic status, without leading them to uselessly
6 call young stock that would never be slaughter stock, from their
7 herds.

8 Now, we feel that it may not be necessary to undertake
9 the daunting and costly task of reviewing medications for young
10 non slaughter stock. In OFPA, the medicinal practices twelve
11 months prior are not completely and fully delineated.

12 The statute focuses instead on prohibiting antibiotics
13 and synthetic trace elements that are specifically to stimulate
14 growth or production of livestock. If it is necessary for TAP
15 reviews to occur, only then does the OTA support a concerted
16 effort to identify and review needed medications for young stock.

17 We are searching for a mechanism which would allow
18 uninterrupted business on farms across this country and overseas.
19 And we believe strongly that we must have a clarifying solution
20 before October 21 of 2002.

21 The NOSB Livestock Committee's draft recommendation
22 back in March of 2002, seemed much closer to identifying and
23 addressing the problem. The recommendation that the NOSB
24 Livestock Committee had back in March pointed out that a

1 requirement for organic replacement stock is the desirable goal,
2 but it provided some flexibility for commercial availability, and
3 it also addressed the biggest problem, the lack of health care
4 materials for young stock.

5 The recommendation addressed it by proposing a waiver
6 on medications for the first six months of life, which is more
7 consistent with OFPA's twelve month allowance. We must have a
8 clarifying policy statement of the existing rule so that business
9 is not interrupted.

10 The positive thing about the NOSB Livestock Committee
11 recommendation in March is that it recognized that this is really
12 a health care materials issue for less than one year old non
13 slaughter stock.

14 Unfortunately, the current recommendation for
15 clarification dated July 11th, is not a compilation and
16 codification of organic dairy farmers practices, it does not
17 address other non slaughter production stock, and it does not
18 reflect historical certification practices in the United States.

19 Last Tuesday, September 10th, sixteen members of the
20 OTAQAC Livestock Subcommittee were present on a conference call,
21 certifiers, producers, inspectors, to continue the dialogue and
22 deliberations concerning this whole issue, and we all agreed on
23 two main issues.

24 Number one, producers could uphold a requirement for

1 organic dairy and fiber stock to be raised as organic from the
2 last third of gestation, as far as living conditions and feed,
3 provided that some phase in period was allowed.

4 This would be coupled, if required by law, with a
5 concerted effort to add necessary health care materials to the
6 national list specifically for young production animals that
7 would never be sold as slaughter stock, dairy and fiber animals.

8 OTA supports making this rule sustainable for farmers,
9 and urges the NOSB and NOP to consider the effect on farmers in
10 making each of its decisions.

11 And finally, let's keep in mind that the preamble to
12 the final rule states that the rationale for the last third of
13 gestation was that organic management for breeder and dairy
14 stock, being used as slaughter stock, needed to be consistent
15 with the requirement that slaughter stock be under organic
16 management from the last third of gestation.

17 What was never fully considered were dairy and fiber
18 animals that would never be slaughtered as organic meat. An
19 interpretation, and ergo, perhaps a recommendation might seem to
20 be the following.

21 For non slaughter stock. During the period between
22 birth and twelve months, there should be an allowance for
23 medications other than sub-therapeutic antibiotics and growth
24 hormones that are prohibited by OFPA.

1 In conclusion, we of the OTA Livestock Committee
2 recognize that this is not a dairy only issue, this is a non
3 slaughter stock issue. It is including, but not limited to milk
4 and fiber from cattle, goats, llamas, alpacas, sheep, etc.

5 The fiber community was heavily effected by the final
6 rule requiring fiber animals, whether destined for the organic
7 meat market or not, to be raised as organic from the last third
8 of gestation. They don't even have a whole herd conversion
9 clause, and they should.

10 The whole issue is one of health care for young stock
11 that will never be marketed as organic meat. We recognize and
12 appreciate the efforts that the NOSB Livestock Committee has put
13 into the July 11th recommendation, and we hope this effort
14 continues in our ongoing dialogue and deliberations to reach a
15 solution.

16 The allowance of non organic replacements doesn't solve
17 the on farm medication issues. We urge NOP to post a clarifying
18 statement on the policy section of the USDA NOP website, a
19 clarifying statement that delineates the medicinal allowances and
20 the inherent production differences between organically raising
21 slaughter stock and non slaughter stock.

22 The clarifying statement should incorporate OFPA's
23 allowance for medications on less than one year old non slaughter
24 stock. The policy should point out that this is not a difference

1 in feed or living conditions, but an inherent difference, with
2 precedence, between the health care items allowed when raising
3 animals for slaughter, and the health care items allowed when
4 raising animals solely as production stock.

5 And I really thank the board for their patience during
6 this long presentation, and thank you very much, Chair.

7 CHAIRPERSON CARTER: Okay, Kelly.

8 Questions? Rose, I'm looking by you just to see
9 because you've been asking the first question all the time, to
10 see if there's anybody else. Jim, you've got your hand up, and
11 then Rose, and then George.

12 MS. KOENIG: I just drank more coffee than anybody
13 else. I'm on the wall today. Did the Committee --

14 CHAIRPERSON CARTER: Rose, I was calling on Jim first,
15 and then you.

16 (Laughter.)

17 MS. KOENIG: Sorry, Jim.

18 MR. RIDDLE: You did have more coffee.

19 Yeah. I guess my only question is, do you have an
20 abridged version of your comments, specifically the recommended
21 change in language to the Livestock Committee's dairy replacement
22 recommendation, exactly what words you would like to see changed?

23 MR. MATHEWS: I have a copy of this presentation, I
24 have a copy of the research behind this presentation. And as we

1 noted, we are urging the Board to defer the vote on this, so that
2 the OTA can work together with the NOSB to come up with the
3 proper language, the proper policy clarification language.

4 MR. RIDDLE: But I also heard you say it's imperative
5 to get this wrapped up in a timely manner.

6 MS. SHEA: Yes.

7 MR. RIDDLE: And so if you could have exact language
8 to present to the Committee, it would be most helpful.

9 MS. SHEA: I will definitely go back to the Committee,
10 and we will continue, and quite a few of us are here today, so --

11 CHAIRPERSON CARTER: Okay. Now, Rose.

12 MS. KOENIG: Okay. I'm not on the Livestock
13 Committee, so what I gleamed from your comments was that it was
14 the medications that were the --

15 MS. SHEA: Yes.

16 MS. KOENIG: But through the rule, and I know the
17 petition process is a very long process, and it's certainly not
18 going to give you immediate -- there's nothing that prevents
19 people to petition those products for that specific period that
20 you're talking about, without changing the rule.

21 So what I'm saying is that there's nothing from taking
22 a list of medications, instead of blanketly saying that you can
23 use whatever you want, wouldn't it be better for the industry to
24 take a more conservative approach and say these are the materials

1 that we feel medication-wise that is needed for that period, and
2 petition for that first year?

3 Did you look at that approach?

4 MS. SHEA: We definitely went through this approach,
5 because keep in mind we've been attempting to reach the consensus
6 route today, since the rule was published on December 21 of 2000.

7 And the issue with that is that there are hundreds, if
8 not thousands of medications with various names, that
9 veterinarians all across the nation use. Some are over-the-
10 counter, some are prescription only.

11 We've consulted with a number of veterinarians and
12 certifiers, and the amount of money it would cost to do this, the
13 amount of time it would take, is staggering. And OFPA
14 specifically says that if the medications are not sub-
15 therapeutic, they're not being used for precautionary reasons,
16 and they -- you're not talking about antibiotics on production
17 animals.

18 OFPA doesn't prohibit other medications. We feel like
19 the best mechanism at this point is it's different than a blanket
20 allowance for anything you want to put in an organic product.
21 These are young stock that are actually in a portion of their
22 life that's prior to rule purview.

23 And this would be in conjunction with the certifier, in
24 conjunction with the veterinarian, and it would all be included

1 in their livestock health care plan, if they had to treat an
2 animal, when they had to treat it, and what they had to treat it
3 with.

4 CHAIRPERSON CARTER: George?

5 MR. SIEMON: Yeah. Just hearing your comments and
6 reading some of the comments that come from OTA over the e-mail
7 recently, I just -- we did a poor job evidently of explaining
8 Issue Number 3, because we tried to clarify very clearly that no
9 one can take their heifers off of the farm, sell them, and buy
10 back heifers that were non organic heifers.

11 We tried to clarify that. Now, I'm hearing part of the
12 bone of contention is that you think we've set that up so that
13 people can actually sell their young stock and buy back young
14 stock.

15 We tried to say, no, you cannot do that, and that the
16 only exclusion from that was if you have a shortage of
17 replacement animals, and/or if you're expanding. So I don't
18 understand why we're not agreeing yet on that one issue, because
19 that was our intent.

20 So I'd like to see you all try to reread what we said
21 in Issue Number 3, to see -- because everybody's comments say --

22 MS. SHEA: George, I really respect -- I know the
23 amount of hours you've put into this, and what you guys tried to
24 do, and we really respect it.

1 What producers have been telling us is it's not the
2 idea of selling them and buying the same ones back, which is
3 prohibited by the rule. They don't want to sell their animals
4 and buy in conventional animals. They want to be able to keep
5 their animals on the farm, but there is nothing in the toolbox to
6 care for illnesses.

7 MR. SIEMON: No, I know, and I'm not trying to talk
8 about medications.

9 CHAIRPERSON CARTER: George, go ahead.

10 MR. SIEMON: I'm trying to talk specifically. Farmers
11 cannot sell their heifers and buy back any other heifers to
12 replace the ones --

13 MS. SHEA: According to the rule, they can. The rule
14 does not require anyone --

15 MR. SIEMON: I'm talking about the recommendation we
16 put forth -

17 MS. SHEA: Okay.

18 MR. SIEMON: -- on this Issue Number 3. We were
19 trying to agree with the comments we're getting, so either we
20 failed in our communication that it's not to allow farmers to
21 sell their young stock and then buy any young stock back, because
22 they didn't want to pay the bill for feed and that kind of thing.
23 Just somewhere -- you know, I think we're all agreeing
24 here, but somehow we're not agreeing on the language on that

1 issue. I understand the whole medication issue, just on the
2 Issue Number 3.

3 MS. SHEA: And maybe I'm not under -- I'm sorry, maybe
4 I'm not understanding.

5 MR. SIEMON: Issue Number 3 is what I'm referring to.

6 MS. SHEA: Okay.

7 CHAIRPERSON CARTER: Okay. Other? Let me just --
8 Kelly, one thing that I've wrestled with, because there seems to
9 be now this -- you know, there's always this attempt to make a
10 decision where -- sort of a difference between slaughter stock
11 and non slaughter stock, which you've referenced.

12 But one of the difficulties it seems like we face, is
13 there's a lot of products that's sold off of that animal that are
14 non edible product, hides being an example.

15 MS. SHEA: Well, hides are a byproduct of the
16 slaughter stock market.

17 CHAIRPERSON CARTER: Right. Okay, you're right,
18 they're a byproduct of the slaughter stock. So therefore, what
19 we've got in this is an opportunity for somebody that's raising a
20 dairy animal that's slaughtered, can sell an organic hide,
21 whereas somebody that's got a beef animal that has to give it a
22 medication in that first twelve months or whatever cannot.

23 MS. SHEA: Why?

24 CHAIRPERSON CARTER: And -- because it's a non organic

1 animal if it's slaughter stock.

2 MS. SHEA: Well, maybe it's no longer an organic beef
3 animal, but maybe it's still an organic hide animal. I don't
4 know, we didn't address hides, but you see what I'm saying?

5 CHAIRPERSON CARTER: Yeah. That's what my -- my
6 question is are you discussing --

7 MS. SHEA: It becomes production stock then, once it
8 gets treated, but what's it producing?

9 CHAIRPERSON CARTER: Okay, yeah. It's production
10 stock and all of that, and it's just -- you know, with margins
11 being so tight in all of these businesses, and the competition
12 between those, has there been any discussion about those type of
13 issues?

14 MS. SHEA: Well, one of the people who signed up to
15 speak today and listed me as their proxy is Chris Elie with
16 Applegate Farms, which is an organic meat company, and he was in
17 support of the comments today. These comments went to all the
18 members of the OTA Livestock Committee, and they all signed off
19 on them.

20 CHAIRPERSON CARTER: Okay. Other comments or
21 questions?

22 MS. SHEA: So I've got copies of all this, and I'll
23 bring them over to Katherine.

24 CHAIRPERSON CARTER: Okay. Very good. Thank you.

1 Okay. And we're going to make an executive decision
2 here, because like Rose, I drank a lot of coffee this morning.
3 So we're going to move up our break ten minutes here.
4 (Whereupon, a short recess was taken.)

5 CHAIRPERSON CARTER: We're back, and next will be Dr.
6 Suhk Bassi. ***

7 DR. BASSI: It does not generate any fibers and has
8 very poor sensory characteristics.

9 Other materials have to be used at three to four times
10 the amount of TSPP, which gives distortions in color and taste.
11 Furthermore, commonly used and accepted alternative materials
12 have been tried, and offer no serious processing advantage, and
13 none are approved for organic processing.

14 The following ingredients were tested and their
15 processing effects were as follows:

16 Sodium Hydroxide produced a shredded and gave an off
17 smell and turned dark.

18 Sodium Bicarbonate produced shredded product, gives out
19 CO2 and this looks like popping popcorn.

20 Sulphur is offensive smell, and is restricted by FDA.

21 Bisulfide, Sulfides, Metabisulphides, also have been
22 tried, and they all are allergens and are restricted by FDA.

23 Sodium Phosphate needs higher levels of use, about nine
24 to ten percent or more.

1 Disodium Phosphate also requires about six to ten
2 percent or more.

3 Tetrasodium Polyphosphate, higher level of use in nine
4 to ten percent or more.

5 Sodium Polyphosphate, Sodium Trimetaphosphate, and this
6 also requires higher levels of use between nine to ten percent or
7 more.

8 And as mentioned earlier, these materials reduce
9 product quality, functionality, affordability, and cause unwanted
10 product discoloration and undesirable odor and foul taste to
11 these organic products.

12 So this product cannot be produced from a natural
13 source, and has no organic ingredients as substitutes. TSPP not
14 only improves the texture of this product, it also retains the
15 digestibility characteristics. Textured wheat protein has an
16 excellent digestibility of ninety-six percent.

17 It should also be emphasized that TSPP is not used as a
18 manufacturing aid, in the sense that it does not speed up the
19 process, but instead it is used to give the fine fiber texture as
20 meat that allows the innovative organic food processors to enter
21 into a rapidly growing food category, and to fully utilize these
22 unique high quality and functional organic protein ingredients to
23 make healthy foods like meat alternators and vegetarian produced
24 foods.

1 Finally, in light of the above unique functional
2 properties of Sodium Pyrophosphate, KCPI is requesting, in this
3 petition, to expand the Sodium Phosphate category, which is
4 already on the approved NOSB list for dairy use only, to include
5 milled and processed grains, and TSPP be added to the Sodium
6 Phosphate clause that is already approved.

7 Thank you.

8 CHAIRPERSON CARTER: Thank you.

9 Any questions?

10 MR. LACY: I have a question. You talked about your
11 texturized wheat protein. It's my understanding that this is
12 then an ingredient in a final product. An example could be
13 Saytan in this case?

14 DR. BASSI: No. Saytan is a completely different from
15 --

16 MR. LACY: Okay. So you're talking about the meat
17 alternative?

18 DR. BASSI: Meat alternative. For example, you can
19 use ten percent of this to make actually like a veggie burger, a
20 vegetarian veggie burger, or a chicken breast, because the fine
21 fibers that we are talking about makes it appear like meat.

22 MR. LACY: Right.

23 DR. BASSI: With a Saytan, is just gluten and water
24 mixed together, and it doesn't give you that -- it's just a big

1 dough like strip.

2 MR. LACY: Okay. So in addition to that, what would
3 the potential percent of TSPP be in the final consumer product?

4 DR. BASSI: The TSPP, like I said, in some products is
5 used at .5 percent, and if you use -- and in the process it's
6 actually used up and broken out, but if you take ten percent of
7 that product, it may end up having like .05 percent.

8 The maximum you're using is 3.5 percent. So if you use
9 ten percent, and most of the products use less than ten percent
10 of the statute wheat, would be something like .35 percent.

11 MR. LACY: .35, is that what you said?

12 DR. BASSI: .35.

13 MR. LACY: .35 in the finished product.

14 CHAIRPERSON CARTER: Kim.

15 MS. BURTON: How many products do you currently make,
16 using TSPP as an ingredient, or as an aid?

17 DR. BASSI: There are several, and the ones -- at
18 least the two or three that are one that uses a .5 percent, and
19 one uses a 3.5 percent.

20 MS. BURTON: And how are those currently labeled?

21 DR. BASSI: There are the products that are used in
22 the vegetarian market right now, but there are two of the
23 products that are under the approved, certified organic, and I
24 think Tom can address this when he comes back here, that we have

1 special approval to use it in two of the products.

2 MS. BURTON: Okay.

3 DR. BASSI: He will address the issue.

4 CHAIRPERSON CARTER: Yeah, Kevin.

5 MR. O'RELL: When you used the TSPP in the textured
6 wheat protein, and that's an ingredient in another product used
7 anywhere at ten percent level, --

8 DR. BASSI: Right.

9 MR. O'RELL: -- the final product, the ingredient
10 statement, the ingredient statement on the IP panel, would that
11 list the Tetrasodium Pyrophosphate, or is that non functional in
12 that product?

13 DR. BASSI: It is listed as TSPP.

14 MR. O'RELL: It would be listed?

15 DR. BASSI: In the ingredient label, according to the
16 FDA rules, in the finished --

17 MR. O'RELL: In the finished product. Not in your
18 textured vegetable protein, but in the final product, is that
19 considered a functional ingredient, or would it be a processing
20 aid or non functional, and not have to be listed?

21 DR. BASSI: It depends on the person who's making the
22 finished product, if they want to label it. We do label it as we
23 supply the ingredient to the customer, and then it's up to them
24 to do that.

1 MR. O'RELL: Right. But the function is in your
2 product, so they could --

3 DR. BASSI: It's only in the product, it doesn't do
4 anything --

5 MR. O'RELL: So they could make the case for a
6 processing aid, because of its low usage rate, and not declare it
7 on the ingredient panel, is that correct?

8 DR. BASSI: It could be done, yeah. And I don't know.
9 Tom said yes.

10 MR. O'RELL: Okay. Thank you.

11 CHAIRPERSON CARTER: Other comments, questions?

12 (No response.)

13 CHAIRPERSON CARTER: Okay. Thank you.

14 DR. BASSI: Thank you.

15 MR. HARDING: Good morning, and thank you very much.
16 My name is Tom Harding. I'm speaking on behalf of Kansas City
17 Ingredient Technologies and supporting the inclusion of
18 Tetrasodium Pyrophosphate on the national list.

19 It is not my intention to repeat again what Dr. Bassi
20 has already said, but only to cover a few additional points, and
21 to address some of the specific issues you've just raised.

22 As the organic program consultant for several leading
23 organic producer groups and value added organic handlers, my
24 first approach to take and is a minimalist and a practical

1 technical approach to both material selection and use for the
2 production of certified organic product ingredients and products.
3 This is precisely what we did with TSPP.

4 Our basic objective was to utilize, if possible, a
5 material already on the national list, are it's parent analog, in
6 this case Sodium Phosphate, which would provide us with the
7 unique processing properties and benefits required to make these
8 high quality functional organic products.

9 As it turned out, Sodium Phosphate was on the national
10 list and met our criteria. However, the annotation restricted
11 the analog in its use to only dairy foods. We do not know why
12 these restrictions were put in place on this particular material.
13

14 It only seems fair that organic food product categories
15 are given equal treatment in order to maintain consistency and
16 credibility to the national list.

17 TSPP easily met all of the elements of the National
18 Organic Standard Board materials petition evaluation criteria.
19 Our materials petition for TSPP inclusion was submitted to the
20 NOSB TAP review process for National Organic Board approval, to
21 add TSPP analog into broad Sodium Phosphate annotation to include
22 milled and processed grain based foods to the national list.

23 Clearly, TSPP is an excellent processing material
24 choice to produce safe, functional, and high quality organic

1 ingredients for the use in certified organic meat alternative
2 products requiring meat like properties with high quality, fully
3 digestible textured proteins.

4 Allow me to point out although organic gluten is one of
5 the based line ingredients in this organic product, our organic
6 ingredient product is not Saytan. TSPP is used in conjunction
7 with organic grain based ingredients at low levels, as you've
8 heard, .35 percent up to 3.5 percent.

9 To make certified organic ingredients, which are used
10 as organic ingredients at levels between, are lower than ten
11 percent, are less in the finished shelf ready organic products.
12 These certified organic ingredients in products are found
13 throughout the organic industry.

14 All these organic ingredients, and the organic
15 products, and made with organic products, have high consumer
16 acceptance, and are certified by responsible accredited
17 certifiers.

18 As Dr. Bassi has clearly stated, we have searched out
19 and tested several other materials, some on the national list,
20 some recommended by the TAP reviewers. To date we have found no
21 equals to TSPP, and none perform at these levels, and provide the
22 extraordinary functionality in quality of properties, as does
23 TSPP.

24 Most bring to the table unwanted odor, taste,

1 discoloration, and poor protein qualities in the finished organic
2 ingredient.

3 In closing, I ask the National Organic Standards Board
4 to approve the KCIT petition to add TSPP to the national list, to
5 be used in organic milled and processed grain based foods.

6 Also, please reference a copy herewith of the formal
7 comments from one of the end users of these organic ingredients
8 also supporting this petition. It's attached to the documents
9 that we have circulated. I think you have both the copies of Dr.
10 Bassi's presentation, as well as mine.

11 Are there any questions?

12 CHAIRPERSON CARTER: Questions? Goldie.

13 MS. CAUGHLAN: You were going to speak to the label.
14 How would it appear on the label?

15 MR. HARDING: On the finished product label it is not
16 listed, as of right now. Let me be very clear. There's two
17 stages. On the finished product that we manufacture, which is an
18 ingredient, it is labeled. On the finished product that's sold
19 directly to the consumer, at present it is not labeled.

20 MS. CAUGHLAN: In other words, the consumer would not
21 ever know that this product was in there.

22 MR. HARDING: That's correct. As I understand, that's
23 true, yeah. At least at the products I've looked at, I don't see
24 it listed.

1 CHAIRPERSON CARTER: Okay. George.

2 MR. SIEMON: We went on the webs of all the different
3 veggie burgers to see if anybody listed this. I just wondered is
4 anybody using this.

5 MR. HARDING: Right.

6 MR. SIEMON: So as far as you know, most of the veggie
7 burgers are using this in the wheat gluten?

8 MR. HARDING: I don't know of anyone using a textured
9 protein of this nature, and particularly this particular one is
10 certainly using a phosphate form of some kind. It may not be
11 TSPP, it may be another phosphate, but none perform like this
12 one.

13 And, as I've said, it's part of the Sodium Phosphate
14 analog family, so --

15 CHAIRPERSON CARTER: Jim and then Kim.

16 MR. RIDDLE: Yeah. Do I understand correctly that
17 this ingredient is currently certified organic?

18 MR. HARDING: Yes.

19 MR. RIDDLE: Even though it's annotation doesn't allow
20 this use?

21 MR. HARDING: This was done prior to the actual
22 annotation. What we did is when we filed the petition, we had
23 been certified back -- in fact, our certification is up right
24 now. So the product has been certified.

1 We filed the petition and we asked that pending the
2 ruling on this petition, that we give special clearance to use
3 this for other than dairy, and that was granted. And, of course,
4 now since everybody's been accredited and so forth, that raises
5 all the issues. It's very important that we maintain the
6 compliance. That's why we bring it before the Board.

7 MS. CAUGHLAN: You are speaking of approved to a
8 different set of standards than this?

9 MR. HARDING: No, it's -- well, we were approved to
10 the certifiers standards before the law came into force, which
11 officially comes into force as of April 29th, if you want to go
12 by the accreditation scheme, or October 21st of this year.

13 CHAIRPERSON CARTER: Kim.

14 MS. BURTON: I had asked you how many labels you're
15 currently selling with this.

16 MR. HARDING: Two.

17 MS. BURTON: And are they -- and how are they labeled,
18 as organic or made with organic?

19 MR. HARDING: As organic.

20 MS. BURTON: As organic. And --

21 MR. HARDING: The ingredients are labeled as organic.

22 MS. BURTON: This is the first time I've seen this,
23 but they're saying that this is used in a certified organic made
24 with label.

1 MR. HARDING: That's correct. In this particular
2 user, which is only one, it is made with.

3 MS. BURTON: So you've got different customers. This
4 is not your customer.

5 MR. HARDING: Right.

6 MR. SIEMON: But this material would still be approved
7 to be in the made with category?

8 MS. BURTON: Correct.

9 MR. HARDING: Correct.

10 MS. BURTON: Okay.

11 MR. HARDING: In the calculations, let's assume that
12 we fell down to that level, meaning that we could quote ninety-
13 five or point whatever it might be, or 94.9995 or something,
14 that's a juggling act of calculations.

15 So I think we wanted to be straight forward and honest
16 about the labeling. We think that it needs to be used in an
17 organic category as a baseline ingredient, and it should be
18 allowed to be used in organic products. That's the only -- the
19 way we're looking at it any way, only the fair and equitable way
20 to do that.

21 In bringing consistency to the category, opening it up
22 to all food categories, unless there's some overwhelming reason
23 not to, makes a lot of sense to us. I speak specifically of
24 Sodium Phosphate and its family, this being one of them.

1 CHAIRPERSON CARTER: Okay. Kim.

2 MS. BURTON: And then just my last comment, that you
3 know, there's a lot of questions, you know, how come you're
4 certified and all that, but as a handler we really have until
5 October 21st to make sure that our labels are clear.

6 MR. HARDING: Absolutely true.

7 MS. BURTON: So whatever comes out of this Board
8 meeting is how you'll --

9 MR. HARDING: And that's how we're going to live.
10 There's no question about it, it's very clear to us.

11 CHAIRPERSON CARTER: Okay. Him.

12 MR. RIDDLE: Well, I just am a little confused yet.
13 It's not informed to the customer that this is an ingredient in
14 this product, correct? In the -- of the final consumer product,
15 they wouldn't know that it was used at all?

16 MR. HARDING: That's correct.

17 MR. RIDDLE: How would it be --

18 MR. HARDING: I mean this is only one that probably
19 falls into this category.

20 MR. RIDDLE: Yeah, yeah, I understand that it's an
21 incidental additive at that point.

22 MR. HARDING: Right.

23 MR. RIDDLE: But how would it be, if it were required
24 that it be revealed, at the final consumer end?

1 MR. HARDING: Well, by the time it gets into the
2 process and changes, it's probably going to be revealed as a
3 Phosphate. It will have Sodium in the Phosphate category --
4 characteristics to it.

5 MR. SIEMON: On the ingredient labels, is what you're
6 saying, you would have written what?

7 MR. HARDING: Either Sodium Phosphate or Phosphate or
8 contains Phosphates or percentage of Sodiums, because as you
9 know, this is basically a Sodium and Phosphate --

10 MR. SIEMON: and that would be a possibility.

11 MR. HARDING: That's a possibility. But I think if
12 you do that, you've got to do that for all categories, not just
13 this one.

14 I cannot stress to you more the consistency in the
15 integrity and credibility, this list is important that all
16 organic food categories be able to participate. If we can say no
17 to one, we should say no to all.

18 CHAIRPERSON CARTER: Okay. Kevin.

19 MR. O'RELL: Just to follow up on Jim, I mean we're
20 talking about an FDA incidental additive definition.

21 MR. RIDDLE: That's right.

22 MR. O'RELL: We can't change the rules of the game for
23 that. Say somebody needs to label something on a product where
24 the FDA has already made a position on incidental attitudes, so

1 we could not require it to be labeled on the finished product.

2 MR. HARDING: And I'm under the impression that that
3 rule prevails in this particular case, so --

4 CHAIRPERSON CARTER: Okay. Other comments, questions?

5 (No response.)

6 CHAIRPERSON CARTER: Okay.

7

8 MR. HARDING: Thank you very much.

9 CHAIRPERSON CARTER: We had up next not an individual,
10 but Biopesticide Industry Alliance, or a representative here that
11 signed that up. Okay. Then Leslie Zuck, and then on deck,
12 Hubert Karreman.

13 MS. ZUCK: Hello, I'm Leslie Zuck, Executive Director
14 of Pennsylvania Certified Organic. PCO certifies ninety or so
15 dairy farms all in the Commonwealth of Pennsylvania.

16 And in May, I came before the Board, and at that time I
17 came in support of the Livestock Committee's recommendation on
18 origin of livestock.

19 I'm here today sort of for the same reason, to comment
20 on the Livestock Committee's new July 11th recommendation, which
21 is presented as a clarification. I was on that sixteen member
22 conference call with Kelly Shea, so she pretty much said all that
23 could be said on that subject in her time.

24 But I guess for me the clarification that was presented

1 wasn't -- it didn't really clarify anything for me, and maybe at
2 some point, I won't have to give my talk if I had maybe George
3 clarify the clarification for me. But at any rate, I know the
4 Committee has worked really hard on this issue, and probably
5 feels the same unending frustration that certifiers and producers
6 have been feeling regarding it too.

7 And really, the only real issue that I want to speak
8 about today is Issue Number 3. I mean that's what people have
9 spent the most time and effort on, I believe, the organic
10 management of dairy animals after conversion.

11 And to me the issue is not whether animals can be
12 rotated in and out of organic management, because that is clearly
13 not permitted.

14 The issue is really whether cows entering the milking
15 herd must be managed organically from the last third of
16 gestation, whether they're raised on the farm, or purchased from
17 off the farm from non organic sources, and whether the rule
18 allows this.

19 So at that point, that would be where I would need the
20 clarification of the clarification because, you know, we all know
21 that there's a little bit of confusion and contradiction in the
22 rule in that area right now, and that was a lot of what, you
23 know, Kelly was here to speak about for twenty-five minutes, not
24 specifically just the medications, but also on the source of the

1 livestock.

2 And PCO has always -- our original interpretation has
3 been and still is that the rule requires all production animals,
4 after the herd is certified, to be managed organically from the
5 last third of gestation.

6 We believe this is the only interpretation supported by
7 the preamble, and it's really the only interpretation that works
8 to close the loopholes caused by the ambiguities in the language
9 of the rule.

10 You've heard me do this before, so just to follow up
11 with that, the preamble states that after the dairy operations
12 has been certified, comma, animals brought on to the operation
13 must be organically raised from the last third of gestation.

14 It's really clear. It doesn't say animals raised on
15 the farm, it doesn't say animals born on the farm. It says
16 animals brought on to the operation. And it also states that the
17 conversion provision cannot be used routinely to bring non
18 organically raised animals on to an organic operation, whether or
19 not, you know, the herd was, you know, converted under the
20 conversion section or not.

21 Really, any other interpretation is unfair to producers
22 who raise their own replacements. You've heard that argument
23 before. As a certifier, you know, I have to deal with someone
24 who calls me and says -- you know, a farmer calls and says, I've

1 got this calf, she's got scours or whatever.

2 I need to treat her. She's only three weeks old. Can
3 I treat her with something, you know, and keep her? And I have
4 to tell that person, well, you have two choices. You treat her,
5 not organic, you've got to sell her, or don't treat her.

6 And then I tell the farmer, but you could buy another
7 cow from the sale barn and convert her for a year and she'd be
8 organic, instead of keeping the calf for twenty-three months and
9 turning her into an organic cow at the end of that. And the
10 farmer asks me why, why can't I do that?

11 And, you know, I ask you all why. Does anybody have an
12 answer to that? I mean what do I tell this guy? You know, and
13 the cost is such that he might have to sell that calf for a
14 couple of hundred dollars, and buy a heifer for a thousand,
15 \$1,200, something like that. So it just doesn't make any sense.

16 And there are certifiers who, at this point, would
17 agree -- would say that the rule would also allow that person to
18 sell that calf to another organic farmer down the road. And that
19 organic farmer could then raise the calf organically for twelve
20 months, but the first organic farmer couldn't, no matter how
21 long, you know, two months, two years, five years, could never
22 make it into an organic cow.

23 So it doesn't really make any sense. Really, the
24 interpretation of last third of gestation is the solution.

1 How am I doing?

2 MR. RIDDLE: I'll let you know when it's one minute.

3 MS. ZUCK: Okay.

4 MR. RIDDLE: It's about a minute and a half.

5 MS. ZUCK: Okay. I did certify certifiers -- survey
6 certifiers, and I got -- you know, I asked them a lot of
7 questions, I had a big long list of questions, and I got a lot of
8 different answers, of course, but they all did agree that any
9 other interpretation, such as allowing non organic replacements
10 was unfair and not the intent of the rule, even though they said
11 that it's -- you know, it's real confusing.

12 And, you know, most of us were following some sort of
13 American organic standard type of rule before all this came into
14 effect. And certifiers, such as PCO, have been enforcing the
15 last third of gestation with some exceptions, and the AOS allows
16 a certifier discretion to allow non organic animals to come in,
17 such as in herd expansion, unavailability, those sort of things.

18 And I know it doesn't specifically say that in the
19 rule, but you know, what we would -- we would support, you know,
20 certainly the last third of gestation at this point. That's
21 still our feeling about it.

22 And most of our producers would support that, but we
23 would also support any type of clarification or guidance from NOP
24 interpreting the rule as, you know, perhaps some sort of a

1 delayed period of enforcement for people to come up to speed,
2 such as Kelly has suggested in regard to a phase in period, or
3 allowing certification agencies some discretion to allow non
4 organic replacements for good reason, as long as they're managed
5 organically for at least the one year. Some sort of discretion.

6 MR. RIDDLE: Time.

7 CHAIRPERSON CARTER: Okay. Comments? Questions?

8 Okay. Jim.

9 MR. RIDDLE: Well, I'll give you the same request that
10 I gave Kelly, which is to look at that Interpretation Number 3,
11 and give us the precise language that you'd like to see changed,
12 that makes it very clear to certifiers and producers. That would
13 be a most helpful thing.

14 And then the other is, just, you know, you brought up
15 calf scours, and that -- you know, we have a lot of materials
16 that are coming before the Board at this time that are going to
17 provide a lot of tools for treating young stock that we haven't
18 ever had before, you know, clarified.

19 And so, hopefully, coming out of this meeting, we can
20 clarify this interpretation to your satisfaction, and give the
21 producers some tools that they need.

22 MS. ZUCK: Yeah. I didn't talk to anybody who
23 interpreted the clarification the way George did, so I think
24 that's why some of us are here and we're a little confused, but

1 we'll work it out together.

2 MR. SIEMON: And so I'm just clear, you're -- what is
3 the confusion on Number 3 again, just one more time?

4 MS. ZUCK: Well, it doesn't come out and specifically
5 say that a farmer cannot purchase a conventional animal and
6 transition it for a year.

7 MR. SIEMON: No, it doesn't, but it says that all
8 farms, once they're organic dairy production, that all their
9 animals must be raised organically, their replacements, the ones
10 they are born on the farms. That's the only point. Okay? You
11 understand that though?

12 MS. ZUCK: Right. Not really.

13 CHAIRPERSON CARTER: Okay. And I would just
14 reiterate, you know, what Jim said would be very helpful is if we
15 had some draft language, because obviously the language that is
16 there is creating some confusion. And so if we had some things
17 that would clarify that, that would help get some --

18 MS. ZUCK: Yeah. It seems to me that everybody does
19 have the same idea, it's just that we have to make sure --

20 CHAIRPERSON CARTER: The issue, there's no
21 disagreement on intent here.

22 MS. ZUCK: We just want to make sure that it goes from
23 here on to the future and everybody's clear with it from there.
24 I mean that's the important thing.

1 CHAIRPERSON CARTER: Okay.

2 MS. ZUCK: Thank you.

3 MR. SIEMON: All right.

4 CHAIRPERSON CARTER: Next up is Hubert Karreman, and
5 then after that, Lynn Coddy.

6 See, you didn't miss your slot after all.

7 DR. KARREMAN: Thank you very much. Traffic was bad.

8 Good morning. For those of you who don't know me, I'm
9 a dairy practitioner from Lancaster County, Pennsylvania. I work
10 with forty-one certified organic dairy farmers on a daily basis,
11 and this translates to about 3,200 certified head of cattle
12 anywhere from their day of birth up through productive milking
13 cows.

14 I use botanical medicines, homeopathy, and acupuncture
15 for routine use for fertility, digestion, and lameness, but by
16 being on the front lines, in the trenches, so to speak, I also
17 know that my natural treatments don't necessarily cut it when
18 there's emergencies.

19 There are roughly a dozen veterinary medicines that are
20 critically important to relieve pain and suffering. They are
21 Butorphanol, Flunixin, Xylazine, Epinephrine, Heparin,
22 Furosemide, Atropine, Activated Charcoal, Mineral Oil, Kaolin
23 Pectin, Bismuth and Magnesium Hydroxide.

24 Because my direct involvement with livestock health

1 matters, and also knowing that the vast majority of my veterinary
2 colleagues have absolutely no idea about how to use natural
3 medicines, I submitted these twelve medicines to be TAP reviewed.

4 I have with me a list of about eighty-one veterinarians
5 who support the use of these emergency medicines, and I'll give
6 you that list at the end. I'll give it to Katherine, I guess.

7 They are alarmed that these medicines may be banned in
8 organic livestock, especially when they are essential to
9 relieving pain and suffering with no clinically equivalent
10 alternatives.

11 To the NOP and the NOSB, for reviewing these
12 medications, I say thank you on behalf of my colleagues, as well
13 as the farmers and their animals. Folks, we're in the eleventh
14 hour before final implementation of the rule.

15 There are precious few animal health care items
16 available, professional veterinarians, when called into an
17 organic forum. I hope that when the whole Board votes tomorrow
18 on whether to prohibit or allow a medication to be used to
19 relieve pain and suffering in certified organic livestock, please
20 keep in mind the following.

21 Organic consumers expect humane treatment of
22 organically raised livestock, but by prohibiting proven effective
23 medicines, farmers will be punished for relieving pain and
24 suffering due to the requirement of removing an animal given a

1 prohibited substance.

2 And therefore, where exactly is there an incentive to
3 treat an animal with effective medicines? Perhaps somebody can
4 some day explain to me exactly why an animal has to be thrown
5 away simply because they were given something which effectively
6 relieves pain and suffering.

7 We're not talking plants and soil, they can be plowed
8 down. We're talking living, breathing mammals that can
9 experience real pain. Creatures under our care deserve
10 compassionate treatment, without punishing the person who cares
11 for them.

12 Fortunately, Bessie the cow is usually quite happy
13 grazing on a pasture out in the sunshine on an organic farm. It
14 is this picture that organic consumers have of a happy cow, but
15 accidents can happen, even on the most perfectly run organic
16 farm. It's simply a fact of life.

17 What if Bessie were to get into the grain bin and get
18 grain overload? Aspirin will not make her feel any better, and
19 aspirin's not approved by the FDA for livestock use.

20 However, by doing a ruminotomy surgery and emptying her
21 rumin, she can recover, but that will take Butorphanol, Flunixin,
22 Xylazine, Mineral Oil, and Magnesium Hydroxide for a humane
23 surgical technique and post operative follow up.

24 Should Bessie then be culled right after surgery? I

1 don't think so, and I don't think organic consumers would think
2 so. After all, Bessie just got curious and happened to sneak
3 under the fence and got in the grain bin.

4 Why people even have to grapple with the notion of
5 short changing animal welfare in the hopes of keeping her organic
6 boggles me. And by prohibiting these medications, that
7 question's going to come up when I'm out in the trenches. It's
8 just not right.

9 Yet the consumer of organic products perceives organic
10 livestock production as a kinder and gentler method of farming,
11 but they have no real clue as to what happens out there on a
12 daily basis.

13 I want to assure you that veterinarians are required by
14 law to follow FDA rules pertaining to any licensed compound.
15 Veterinary medicine covers many species and the FDA has
16 mechanisms in place that speak to regulatory issues regarding the
17 labeling of licensed products. I can't explain all those
18 mechanisms right here.

19 How I wish practitioners were involved earlier on in
20 the rulemaking process, because here we are in the eleventh hour,
21 which is actually when most vets get called in to any problem.

22 In summary, banning medications that relieve pain and
23 suffering will, I believe, potentially give a big black eye to
24 the organic livestock production sector, but by allowing them

1 will give a positive signal to consumers that humane truly
2 exists.

3 CHAIRPERSON CARTER: Okay. Thank you, Hubert.

4 Kim?

5 MS. BURTON: Are you going to be here tomorrow when we
6 go through reviewing these materials?

7 DR. KARREMAN: I wish I could be, but I can't. But I
8 can be available, if needed, by cell phone. I really wish I
9 could, but actually my wife is eight and a half months pregnant,
10 and so I've got to be around the home for --

11 MS. BURTON: Eleventh hour, huh?

12 (Laughter.)

13 MS. BURTON: Thank you.

14 DR. KARREMAN: Thanks.

15 CHAIRPERSON CARTER: A question, Jim?

16 MR. RIDDLE: Yeah. You know, several of the materials
17 that we consider do have FDA withhold times of like forty-eight
18 hours for slaughter or milk. And the EU and Kodak's require
19 double withhold time.

20 What's your feeling as a vet, in working with
21 producers, if we were to recommend double withhold time on some
22 of these materials? Is that realistic, pretextual problems, or
23 is it meaningful too?

24 DR. KARREMAN: Personally, I would think that anything

1 is better than never being able to use these products. I would
2 say that most organic farmers would have no problem, the ones I
3 know, to withhold twice, even if you said three times. I don't
4 know. Okay?

5 I think veterinarians who treat those animals would
6 also understand that, because it's not a conventional farm where
7 all the regular rules apply. Special rules apply, especially
8 like in emergency, perhaps.

9 I don't think anyone would have a problem with that, as
10 long as they have these medicines available.

11 MR. RIDDLE: And know what the rules are clearly for
12 their use.

13 DR. KARREMAN: Yeah. Make an annotation however you
14 want, but please allow these.

15 CHAIRPERSON CARTER: Any other questions?

16 MR. LACY: A quick question.

17 CHAIRPERSON CARTER: Yeah, Mike.

18 MR. LACY: How would you feel about a once in a
19 lifetime use for these products?

20 DR. KARREMAN: As I said, at least once is better than
21 never. Okay? And I think a lot of these medications are rarely
22 used, okay, but a combination of them might be used a few times
23 in a year on a farm. It depends upon the situation with the
24 animal.

1 I think, in my experience, most of these medicines, at
2 least in adult dairy cows that are milking, which is pretty much
3 what I'm speaking to -- I know Kelly Shea was talking about more
4 the young stock -- but I'm talking about actual -- you know, the
5 big ones.

6 Most of these, I'd say, could be once in a lifetime.

7 MR. LACY: I guess it goes back to your animal welfare
8 question, and one that I had, is that it doesn't seem that we
9 would want to ever put anything, any dis-incentive for a farmer
10 to make sure that the animal's welfare was taken care of first.

11 DR. KARREMAN: Yeah.

12 MR. LACY: So I guess coming from that standpoint, I
13 was wondering whether once in a lifetime was a good idea or not.

14 DR. KARREMAN: Well, I think perhaps if you were to
15 say something like, only administered by, you know, a licensed
16 veterinarian under FDA, you know, mechanisms, or regulation, or
17 whatever, in an emergency situation, that probably would make a
18 lot of veterinarians feel better, okay, about using these things
19 very sparingly.

20 Personally, I would like that, being a licensed
21 practitioner, but as I said, at least one time is better than
22 looking at never, if they don't get approved.

23 CHAIRPERSON CARTER: Jim. And just a comment for
24 those members of the Board. When you're asking questions, lean

1 into the mike so it makes it easier to get on the transcript.

2 MR. RIDDLE: Yeah. Just to follow up on the young
3 stock on medications, you know, you've submitted a bunch of
4 things that we've considered.

5 In your knowledge, or your experience, are there some
6 unique materials used only for young stock that we're missing
7 here, that we're not considering at this time, and should they be
8 petitioned if that's the case as a once in a lifetime or on time
9 crisis thing?

10 DR. KARREMAN: Of these twelve that I've asked for?

11 MR. RIDDLE: No, additional. I mean a lot of these
12 are used on young stock, correct? I mean they could be?

13 DR. KARREMAN: Yeah.

14 MR. RIDDLE: Are there others that just jump out at
15 you, that you're aware of?

16 DR. KARREMAN: Well, to be honest, I mean sure, but I
17 wasn't going to go bridge the whole topic of antibiotics. I mean
18 pneumonia in a calf is deadly.

19 MR. RIDDLE: Okay.

20 DR. KARREMAN: Pneumonia in a cow is deadly. Okay?
21 So there would be one specific antibiotic that I could think of
22 in that time of life called Naxelle, which could save the life of
23 a calf and she could grow up eighteen months later and be a happy
24 cow. That would be one thing.

1 MR. RIDDLE: Okay.

2 CHAIRPERSON CARTER: Any comments, questions?

3 Rose?

4 MS. KOENIG: I guess the hard problem I have in terms
5 of the materials is drawing the line. I guess I'm a plant
6 person, so animals are another -- just a whole different way of
7 thinking.

8 And that's what's difficult, balancing, you know,
9 making regulations for all different types of operations, and how
10 do you look at products applied to plants versus animals because
11 of the whole -- you know, although people do think plants may
12 have feelings to, so --

13 DR. KARREMAN: I'll give you that, that's fine.

14 MS. KOENIG: But where I guess I'm coming back to,
15 maybe you can just give me some of your feelings, the problem is,
16 is not that these materials couldn't be used, you know, in an
17 emergency case scenario, it's just that animal would no longer be
18 able to be certified.

19 So that's, to me, where do you draw the line for -- to
20 me that's the issue. It's not --

21 DR. KARREMAN: That is the issue. That's the whole
22 crux of the matter.

23 MS. KOENIG: So it's a balance of the industry side of
24 it, the dollar value versus the integrity of the industry in

1 certain ways.

2 And so can you philosophically, you know, give me some
3 guidance in terms -- because my feeling, to be honest, when
4 reading these things was -- and again, this is coming from a
5 plant producer, and maybe it's very naive, but it's only one --
6 you know, like you said, we're not talking about, you know the
7 norm.

8 You know, if you're doing good management practices
9 and, hopefully, taking care and watching where your animals are
10 going, these should be the exceptions, not the norm.

11 DR. KARREMAN: Absolutely.

12 MS. KOENIG: So do we change the rule to deal with
13 exceptions, rather than the norm? So what is your philosophical
14 feeling? Is there a problem just saying that that animal is no
15 longer certified?

16 DR. KARREMAN: Well, first I'd say you wouldn't have
17 to change the rule, you could do it through materials through the
18 NOSB. Those changes take a whole lot of --

19 MS. KOENIG: No, I understand.

20 DR. KARREMAN: -- you know, involvement, I guess.
21 That is totally the crux of the matter, okay? And I can tell you
22 that honestly being out on a farm at whatever, 10:00 o'clock at
23 night or whatever.

24 And I'm standing next to this cow that is flailing in

1 the much, and I say, well, you know, we really should do this.
2 We can try some Arnica, we can try some acupuncture on her, but
3 gee, you know, to really get her over this, you've got to use a
4 prohibited material text, whatever.

5 I don't say prohibited material, I say Product X. I
6 know it's prohibited. Farmers have no clue, generally, about all
7 these --

8 MS. KOENIG: And that's what I assume. You're --

9 DR. KARREMAN: -- I can tell you that. So then they
10 say to me, oh, well, Dr. Karreman, you're the organic vet, you
11 know, is that going to be allowed for the animal? And I say no.
12 They say, well, I'd really rather try something else first.
13 Okay?

14 Now, that might not be Arnica, that might not be
15 acupuncture. Maybe it's Swedish Bitters, maybe it's some -- I
16 don't know, maybe some home remedy that has not a lick of science
17 behind it, if it's efficacious or not, okay, but they will try --
18 this is just human nature.

19 And I was a herdsman on a farm for six years, I know
20 this. If you know that animal will never be back in your
21 production line, you just don't try as hard. Okay? So
22 then you have this animal just kind of flailing around or
23 whatever is happening and, you know, you could treat it one time
24 in this emergency with some of these gray area medicines. I call

1 them gray area medicines because they're not antibiotics, they're
2 not hormones. Well, one is a natural one.

3 But a pain reliever, okay? And you can get that animal
4 perhaps feeling better, starting to eat and, hopefully, get over
5 the problem on her own. If you can make an animal feel better to
6 eat, they can get better. You've got to have faith in that.
7 That's different than plants. Okay?

8 And so I mean but it kills me every time I'm on an
9 organic farm and I've got to lie to them. You know, the farmer
10 will ask me, you know, can I use this, will she stay certified?
11 And I have to be honest, if I know the answer, and say no.

12 And they will do everything in their power to keep the
13 animal certified. And you can say that farmer should be
14 decertified. Where's the mechanism to do that? Who's going to
15 rat on that farmer? Not me. Who's going to do it?

16 So I say if -- you know, we're kind of being painted
17 into the corner, as Act professionals, veterinarians, and
18 farmers, with these materials. I mean aspirin just doesn't cut
19 it, and lidocaine is a local anesthetic.

20 There are these compounds here that give systemic
21 feeling of well being to the animal, if only temporarily. So,
22 you know, that is -- I don't know how that got written into the
23 rule, but that kills me every time I read that. And I've gone
24 over that, Leslie, a lot at PCO, and you know, it's a Catch-22.

1 Why should the farmer be punished for treating an
2 animal one time? And I think if you were to have an organic
3 consumer standing right there with me, the vet, the farmer, and
4 the cow, the organic consumer would probably say treat her, make
5 her feel better. Okay?

6 And I guess I would say, and the farmer would say,
7 well, that one shot should not like boot her out of the herd.

8 CHAIRPERSON CARTER: Okay.

9 DR. KARREMAN: That's what you're say if we prohibit
10 these things.

11 CHAIRPERSON CARTER: Okay. If we could have some
12 brevity in both questions and answers, because we do have a
13 number of other commentaries.

14 DR. KARREMAN: Sorry.

15 CHAIRPERSON CARTER: Yeah. George, I think you had --

16 MR. SIEMON: I just want to thank you for all you've
17 done for us in the last year, your support at every level, and
18 simulating us on all these, the non fire issues like everybody
19 talks about hormones, but the truth is there's a whole world out
20 there of necessary tools, and I really appreciate the leadership
21 you provided.

22 I just wanted to make sure I said that.

23 CHAIRPERSON CARTER: Mark.

24 MR. KING: Yeah. Following Mike's point, if the once

1 in a lifetime option were provided, in your experience to what
2 degree would that help? I mean specifically in thinking of cases
3 where you --

4 DR. KARREMAN: Okay. You have a cow with a torsion of
5 the stomach, right side torsion of the upper masson on a
6 Saturday. You can't sell the cow till Monday, let's say. In our
7 area, New Holland, there's a market, but that's Saturday. The
8 cow will die, almost guaranteed, by Sunday night with a right
9 sided torsion of the upper masson.

10 If you allow me to use Butorphanol, Xylazine and
11 Telazyline to wake her up again, and Banimine or Flunixin to
12 perhaps obviate any endotoxemia from the torsion of the stomach,
13 that allows me to do that surgery, flip that stomach over, and
14 believe me, I don't hardly use any antibiotics at surgery.

15 I just did one on an organic farm three weeks ago. The
16 cow's fine. That was a Saturday, it was a right sided twist of
17 the stomach. That is a specific incidence.

18 Or the little grain example, the grain overload example
19 I mentioned here. Not everything needs an antibiotic or a
20 hormone to be treated. I firmly believe that. A lot of
21 veterinarians do not believe that.

22 But at least if you give us some tools in that gray
23 area, so to speak, to help the animal, you know, that -- there's
24 a lot of situations where, you know, if I can give, let's say,

1 flunixin, to relieve pains of inflammation, fever, and then I go
2 in and I also do acupuncture to get a paralyzed cow up because of
3 a hard calving, hey, that's really good.

4 I didn't use Dexamethasone, that's illegal. That's a
5 steroid. Okay? Most vets would use Dexamethasone and Banomine.
6 So if you allow just some things, it would help a great deal.

7 And I mean and these are living creatures. I mean
8 they're not plants. I mean, you know, they look at you in the
9 eye when you're feeding them.

10 CHAIRPERSON CARTER: Okay. We're going to move on
11 then. Thank you.

12 DR. KARREMAN: Thank you.

13 Okay. Lynn Coody and then on deck is Joe Smillie.

14 MS. COODY: Hi. My name is Lynn Coody and I'm a
15 consultant to certifiers on accreditation related topics through
16 my company, Organic Ag Systems Consulting, located in Eugene,
17 Oregon.

18 Over the past approximately two years, I have assisted
19 two dozen certifiers with issues related to NOP accreditation. I
20 also serve as the Chair of the Accreditation Subcommittee of
21 OTA's Quality Assurance Council.

22 Today I'm speaking on my own behalf to address five
23 topics related to the NOP Accreditation Program. The topics are
24 procedures for certification of growers' groups; the

1 Accreditation Program manual; merging ISO 65 and NOP
2 accreditation requirements; peer review panel; and NOP complaint
3 procedures related to accreditation, so I have to talk fast.

4 First, I'd like to briefly thank the NOSB Accreditation
5 Committee for issuing their position paper on criteria for
6 certification of grower groups. I've reviewed the paper and
7 submitted comments. And in general, I concur with the
8 Committee's position on this topic.

9 I did respond to the specific areas or topics that the
10 NOP -- NOSB Committee wished, comments including requirements for
11 participation in grower groups, and inspection protocols.

12 But I don't have time to tell you all the details
13 today, just to say that I do, in general, concur with what
14 they're proposing. So thanks a lot for that forward movement.
15 It a very important topic.

16 Next, I'd like to address briefly the Accreditation
17 Program manual. Background on this is that an Accreditation
18 Program manual is required by the rules referenced to ISO 61, and
19 that allows transparency of the accreditation procedures to the
20 people who are affected by them, mostly the certifiers.

21 Currently, the lack of Accreditation Program manual is
22 resulting in a patchwork of policies created by NOP
23 interpretations and rule requirements. And this creates
24 difficulties for certifiers in tracking and complying with all

1 aspects of the NOP, which I believe all certifiers are really
2 diligently trying to do. It's just getting to be a confusing
3 situation.

4 So I believe that the NOP could really help the
5 problem, help to correct the problem by writing an Accreditation
6 Program manual, making it available to the public, and that the
7 Accreditation Program manual must contain at least the working
8 documents used in the Accreditation Program. And secondly, all
9 the accreditation procedures that comply with the elements of ISO
10 61.

11 Okay. My third position is one that I've brought up
12 before, and I'm sorry to have to bring it up again. I hope
13 you'll forgive me, but this has to do with merging the
14 requirements of ISO 65 and the NOP accreditation requirements.

15 Many foreign markets still currently demand ISO 65
16 accreditation, and U.S. certifiers are finding it necessary to
17 continue their USDA ISO Guide 65 accreditation in addition to the
18 NOP's own accreditation, because foreign governments are not yet
19 accepting the NOP as an equivalent position with their own.

20 So we're still relying a lot on ISO, which is great
21 because the USDA has provided that, and kept that program going.

22

23 However, this dual accreditation is not only expensive
24 and time consuming, but there are certain key differences that

1 are causing barriers for certifiers because NOP does not include
2 all of the ISO Guide 65 requirements, and in some cases there are
3 differences that are actually conflicts.

4 So recently there's been a few documented problems of
5 certifiers having difficulty meeting both sets of requirements,
6 and it's getting very, very confusing for certifiers to be able
7 to deal with this.

8 So basically, what we need to do is merge the ISO Guide
9 65 requirements completely into the National Organic Program, and
10 we need to have the program manual, as I mentioned before, to be
11 used as an interim vehicle to address the deficiencies, so we
12 don't have to wait for a rule change to make these important
13 changes.

14 But also then we probably will need a rule change to
15 incorporate them all. Also, there needs to be a reasonable time
16 frame for implementation of the additional requirements.

17 Okay. I'm going to run out of time, so I'm just going
18 to say the peer review panel is a requirement of the rule,
19 because the rule specifically addresses and references ISO Guide
20 61, and I strongly urge the NOP to establish a permanent peer
21 review panel as soon as possible, in order to ensure that all of
22 the NOP procedures are in compliance with ISO 61.

23 And finally, really quickly, I believe there needs to
24 be a complaint procedure that addresses two things, procedures

1 for filing complaints with the NOP against accredited certifiers,
2 or applicants for accreditation, and procedures for filing
3 complaints against the NOP's own accreditation program, which is
4 a common practice within ISO 61.

5 MR. RIDDLE: Time.

6 MS. COODY: So thank you very much and that's it.

7 CHAIRPERSON CARTER: Okay. Questions for Lynn?

8 (No response.)

9 CHAIRPERSON CARTER: Thank you, Lynn.

10 MS. COODY: Thanks.

11 CHAIRPERSON CARTER: Okay. Joe Smillie and then Leon
12 Hoodes.

13 MR. SMILLIE: Chairperson Carter, members of the NOSB,
14 and NOP staff, thank you for, once again, the privilege in this
15 transparent democratic process of presenting the views.

16 My name is Joe Smillie. I'm the current Secretary of
17 the OTA, and serve on the Executive Committee, and have been
18 asked to present OTA's comments.

19 The Organic Trade Association is in the process of
20 developing comments on the clarification of the dairy herd animal
21 replacement clause, health care materials for young stock, and
22 inclusion of fiber and non food items produced from livestock.

23 You have heard the concerns of some OTA members that
24 have been raised, as well as ideas on how to address these

1 concerns. Kelly Shea, Chair of the Livestock Subcommittee of the
2 Quality Assurance Council, has presented extensive comments,
3 which OTA hopes to present as a final comment, after final
4 deliberation by the OTA's Quality Assurance Council.

5 Unfortunately, OTA must note that although NOSB's
6 request for comments stated that there would be a sixty day
7 comment period, there's been substantially less than that. And
8 we need the time, a calm deliberative process is necessary to
9 comment on items as complex as the ones you've heard this
10 morning, especially from the passionate testimony of the
11 veterinarian.

12 We request that NOSB postpone the decision on this time
13 until, as Chairperson Carter noted, we are of the same intent.
14 We need to get our wording together. So let's take the time to
15 do that.

16 OTA will be submitting formal comments on the NOSB
17 grower group recommendations by the deadline, September 20th.

18 OTA anticipates that these will include supporting the
19 conditions recommended by the NOSB for participation in the
20 grower group, suggesting that the certifying agent have policies
21 and procedures as to how many growers will be inspected annually,
22 with specific language and supporting the guidance offered for
23 the inspection of grower group requirements for certifiers, as
24 well, in the NOP's accreditation procedures manual. The long

1 awaited manual.

2 As regards the International's Committee equivalency
3 recommendations, we are happy to recognize the background
4 material provided by the Committee. It was very useful and
5 interesting in -- especially reading the approach the
6 International Committee has taken to the background of
7 equivalency negotiations.

8 It has been OTA's experience, in working with FAS, NOP,
9 and the USTR, that there are a whole series of protocols that are
10 required for international agreements, whether they be
11 arrangements, agreements, or bilateral equivalency. And it's
12 these protocols that I think are the most important.

13 So we can't endorse the recommendations of the
14 Committee, but do take it as very valuable background material,
15 and will continue to work with the appropriate
16 government agencies in making sure that international trade is
17 conducted to the benefit of U.S. farmers and U.S. consumers.

18 Furthermore, OTA applauds the NOSB for working hard on
19 the materials petition agenda. The timely and responsible
20 resolution of materials questions and petitions is vital for the
21 continued health of this industry.

22 We urge the NOSB to continue to focus, as is their
23 mandate, on the materials petitions, and that they are given full
24 and timely reviews. In addition, materials reviews should be

1 available to the NOSB and the public sufficiently in advance of
2 NOSB meetings, so that interested parties can have access to
3 them.

4 We also urge that the NOSB continue the spirit of
5 cooperation with the NOP, so that we can all work together to get
6 an organic rule that all of us are happy to live with.

7 CHAIRPERSON CARTER: Okay. Thank you, Joe.

8 Comments? Questions? Okay. Jim.

9 MR. RIDDLE: Yeah, Joe, will the OTA be submitting
10 comments on the International Committee equivalency
11 recommendation?

12 MR. SMILLIE: You've heard them. That's the --

13 MR. RIDDLE: No written comments?

14 MR. SMILLIE: Oh, well, it will be -- this will be in
15 writing.

16 MR. RIDDLE: Okay. But on the posting, on the draft
17 recommendation that's posted on the website for public comments
18 from the International Committee?

19 MR. SMILLIE: That's -- I've read them and they're in
20 writing.

21 MR. RIDDLE: Okay. Make sure they come in through
22 that route, please.

23 MR. SMILLIE: Absolutely.

24 MR. RIDDLE: Okay. Thank you.

1 MR. SMILLIE: Well, I must say that recently Tom
2 Hutchinson from the OTA is responsible for OTA policy, and he had
3 a serious accident and medical condition, so that's why I'm here
4 today to present them, rather than Tom.

5 And we have been somewhat hampered in our efforts
6 because of Tom's, you know, medical condition. Those will be in
7 writing, and they will be delivered to you.

8 CHAIRPERSON CARTER: And one of the things that's just
9 come in, as far as the materials getting out to the public,
10 that's one of the things that I think with the process now of
11 getting those up on the website, that that's improving rapidly.

12 MR. SMILLIE: And we appreciate the efforts and we
13 understand what a difficult process it is, but as you've heard
14 today, I mean it is critical.

15 CHAIRPERSON CARTER: Yeah.

16 MR. SMILLIE: I mean our industry will be absolutely
17 hamstrung unless we get that as quickly as possible.

18 CHAIRPERSON CARTER: Yeah, that's right. Okay.

19 Other -- okay, thank you very much, Joe.

20 Okay, Liana Hooded, and then we have Dan Leiterman.

21 MS. HOODES: Hello, all. I'm Liana Hooded with the
22 National Campaign for Sustainable Agriculture Organic Committee.

23

24 I'm really going to do a little bit of repetition of

1 our constant harping on the process, because I think that we're
2 seeing the results of why the process has to be dogged carefully.

3 Clearly, materials review is the NOSB's statutory
4 responsibility. It is essential that the process remain fair,
5 transparent, and that the TAP reviews are complete and widely
6 available.

7 You, as the NOSB, are under considerable pressure, we
8 continue to hear, to move through large numbers of materials,
9 reviews, and we're concerned that the process not get rushed due
10 to, among other reasons, economic factors.

11 While others implore you to move swiftly, we urge you
12 to continue to move carefully. We urge you to not make material
13 decisions that aren't well documented or complete, follow good
14 procedure for decision making, and be consistent. Be sure and
15 base your decisions on good quality TAP reviews.

16 If the reviews are not adequate, then send them back.
17 You have that ability. Don't be afraid to postpone decisions,
18 because questionable decisions could be challenged.

19 And we hope they won't, but that would cause much more
20 disruption in the marketplace in the future than if you just take
21 the time. Base decisions on the criteria for decision making, as
22 outlined in the law.

23 I'm concerned, when I look on the web at some of the
24 comments that the economics are reasons for allowing materials,

1 and that is not part of the criteria. It is a whole picture when
2 we're looking at the marketplace, but there are established
3 criteria for looking at materials. And just because there is
4 economic reason that a business needs that material right now, is
5 not a criteria that you need to follow.

6 All petitions should be public information to
7 understand who's applying, and why their petitioning. The
8 petition should be complete and have followed the regulatory
9 requirements. If not, we ask you to request the full petition to
10 be redone.

11 Good petitioning process is particularly important in
12 cases of the NOSB self petitioning. These petitions must be
13 fully transparent or could become the back door for special
14 interests that want a faster and quicker way through.

15 I'd also like to just quickly say, in the terms of
16 alternatives, once again regarding economics, obviously where any
17 material -- where commentaries claim that there is no natural
18 alternatives, obviously the marketplace will build those natural
19 alternatives, if there is a reason to.

20 If a synthetic is approved, then there is no push for
21 the natural alternatives. We said that before and I just want to
22 reiterate it.

23 I also like to hound the point to the NOP and to USDA
24 that NOSB has this important responsibility. Under the law and

1 the rule, they have the ability to have a director and staff, and
2 we continue to urge that they get this help.

3 This is an amazing thing that you all are continuing to
4 do with these massive numbers of materials, reviewing them. To
5 continue asking a volunteer Board to do this, we need to commit
6 resources as in a director and staff for that director, please.

7 I would finally like to reiterate, from Lynn's
8 comments, that we definitely need an Accreditation Program
9 manual, and the peer review panel. These are also statutory
10 pieces that are required. And they haven't come yet, and it's
11 beyond the eleventh hour for these pieces.

12 CHAIRPERSON CARTER: Okay. Thank you, Liana.
13 Questions?

14 MR. RIDDLE: I just have one.

15 I don't know if you're prepared with this, but has the
16 campaign looked through the TAPs that are coming in this time,
17 and identified any that are particularly inadequate, in your
18 opinion?

19 MS. HOODES: No. I've looked through them, and I'm
20 not particularly qualified, but I've heard lots of comments from
21 the community about this, that the TAP -- that a few TAP reviews
22 are just substandard. And I am not qualified to say that, but
23 have heard quite a bit of comments.

24 CHAIRPERSON CARTER: Okay. Thank you, Liana.

1 Rose?

2 MS. KOENIG: I just -- it's more of a comment, and I
3 think it's based on your comment, and it's a question that I
4 have.

5 We all know that the materials are going to be re-
6 reviewed, you know, within five years of the list, but that
7 process is not clear how that's going to be done. And in terms
8 of a work order, if we're going to deal with this materials task
9 force, that's something that has to be addressed.

10 Because I know in our committee meetings, you know,
11 some of our decisions were based on that process, that we would
12 be re-looking at these materials. And so, really, the format of
13 how we're going to look at those, will TAPs be done once again,
14 all those kinds of questions in many ways have to be answered as
15 we make these decisions.

16 MS. HOODES: And I'd also like to say that's very
17 important to review in terms of development of natural
18 alternatives. That's the crux, really, of it.

19 CHAIRPERSON CARTER: Okay. Thank you.

20 All right. We have Dan Leiterman, and then David
21 Engel.

22 MR. LEITERMAN: Could I approach the Chair with some
23 copies of my comments?

24 CHAIRPERSON CARTER: You could, yes.

1 (Whereupon, Mr. Leiterman handed documents to the Board.)

2 MR. LEITERMAN: Good morning, and thank you for the
3 opportunity to address the distinguished Board and the Chair.

4 My name is Dan Leiterman, and I'm with Crystal Creek,
5 Inc. I'm the President and owner of that company. The focus of
6 our company is to develop nutra-suitable products for livestock
7 producers that are natural alternatives to using antibiotics and
8 drugs, caustic chemicals, and hormones.

9 I've been in this industry for twenty-eight years and
10 five years ago, I decided to take a focus on natural alternatives
11 for livestock assistance. I saw a terrific need for that.

12 I was appalled at the lack of product on the market at
13 the time, when I went to look for usable items, and found that we
14 had to get basic with our search to find ingredients that
15 satisfied strict criteria that we had for safe, effective, and
16 usable natural products that producers could use on a daily basis
17 for therapeutic and preventative issues.

18 We're currently consulting with over 2,400 producers
19 nationwide. There's a tremendous need for these materials. We
20 have very strict criteria for those therapies and preventatives.

21

22 I'd like to emphasize that the use of these materials
23 on a therapeutic level are short term and low dose. We're using
24 them to promote livestock health. And the goal of our

1 organization then is to slide the producer into a preventative
2 mode, to try and help him to prevent having to use therapies in
3 the future.

4 I heard comments earlier about concerns for therapies
5 on livestock. We deal with livestock producers of all sizes,
6 with critical issues of all kinds, calves particularly.

7 We find that there are a number of very effective
8 alternatives for use on calves and older animals, for all kinds
9 of ailments, whether it's calf scours, pneumonia, metabolic
10 disorders, toxemias, pathogens, or whatever.

11 We have a practicing on staff vet, a veterinarian on
12 staff, and we have developed these products in a manner that we
13 think is bold, consistent with organic philosophy, and very
14 effective.

15 There's several that I petitioned, that you have to
16 consider. I made some comments here that I'd like you to take a
17 look at, particularly the Potassium Sorbate. I want to draw your
18 attention to its use in the Aloe industry.

19 These items are cornerstones to philosophies of
20 treatment that we've adapted over the last five years, and are
21 critical to those natural applications. I want to use Potassium
22 Sorbate as an example.

23 One of the things that I find with the TAP reviews, as
24 I read them, I want to congratulate the people that did them.

1 There are some areas of question. The products that I
2 handle right now, many are not certified organic, have not gone
3 through the process because there's so much question as to what
4 do you do with these ingredients. Potassium Sorbate's one.

5 If you look through these, I'd like to draw your
6 attention to the fact that Potassium Sorbate internationally has
7 been widely accepted. It's probably one of the most studied
8 compounds used in the food industry. The lack of that compound
9 severely inhibits the delivery of Aloe to the livestock industry.

10 We use it at therapeutic levels. Mold in that product
11 is not tolerable. We use it on topicals for surgeries, we use it
12 in diet, we use it for uterine infusions, and molds are just not
13 acceptable. Other alternatives for delivery are just
14 prohibitive.

15 Another concept on there is that that preserved it as a
16 very specific use. And I know the word preserved it in organic,
17 to some may not seem to be consistent with the philosophy of
18 organics, but this particular preservative has got a
19 significantly high level of criteria.

20 It is extremely safe. When it breaks down, it breaks
21 down to carbon and water. It's a fatty acid. It's a natural
22 feed stuffs, it's a nutrient. The TAP reviews agree with that.

23 Another thing that I'd like to point out is that there
24 are other standards that have been set from mold inhibitors.

1 Salt is a mold inhibitor, but it's widely used in organics.

2 Vitamins also.

3 So just using a category of preservatives, I'd like to
4 point out that there are some good preservatives that might be
5 considered, that even though they fall under that category, have
6 good benefits to them.

7 It's a synthetic. You've allowed other synthetics,
8 vitamins and minerals. It's an excipient, and excipients, by
9 definition, allow the delivery of a medicine, a drug. In this
10 case a natural drug or a neuroceutical, --

11 MR. RIDDLE: Time.

12 MR. LEITERMAN: It's safe and clean.

13 Thank you for your time.

14 CHAIRPERSON CARTER: Okay. Kim.

15 MS. BURTON: One of the issues, when we were reviewing
16 the TAP review, was that Potassium Sorbate, it appeared to us,
17 would also fall under the processing arena, being that Aloe
18 juice, and at the eleventh hour the Processing Committee has
19 tried to look into this, so that we could evaluate it and make
20 some recommendations from the processing side.

21 I did a lot of research on the Internet. I made some
22 phone calls, I called the certifier. And it appeared to me that
23 it's currently being used in a made with organic label. Is that
24 true?

1 MR. LEITERMAN: Currently, my understanding is that
2 the Texas Department of Ag has a label calling it a certified
3 organic product, which is recognized by the USDA, if I'm
4 understanding it correctly, which will change as of October 21st,
5 so we'll need some clarification on what to do with that.

6 MS. BURTON: Okay. So you had full intention of
7 changing your labeling by this determination?

8 MR. LEITERMAN: Well, it will be necessary to change
9 it. Currently, as we are, we're in limbo.

10 MS. BURTON: Okay.

11 MR. LEITERMAN: A lot of the items that I'm handling
12 here, that I've listed on this page, need to have a decision
13 because we really don't know where to go with these.

14 CHAIRPERSON CARTER: Okay.

15 MR. LEITERMAN: Any other questions?

16 (No response.)

17 CHAIRPERSON CARTER: Thank you.

18 Okay. David Engel and then Emily Brown-Rosen.

19 MR. ENGEL: My name is David Engel. I'm a dairy
20 farmer from Wisconsin, and I'm also the Executive Director of the
21 Midwest Organic Services Association.

22 My comments are from both -- wearing both hats. And I
23 appreciate the opportunity to share with you my thoughts on two
24 items. I do want to start with a brief joke. It's not really a

1 joke.

2 (Laughter.)

3 MR. ENGEL: It's a good story. There is a story about
4 three farms who were attending one of those great farming
5 conferences that occur around the world. And during the break,
6 they were discussing what was the greatest agricultural
7 technological invention of all times.

8 Jose thought that the hay bailer was truly amazing, how
9 it could tie a piece of string with steel fingers so fast in the
10 field, you know, pumping along like that. Everyone agreed it was
11 amazing.

12 Thomas thought that the combine was the greatest
13 invention of all because of all the kinds of crops could be
14 harvested, even if it was weedy or on a hillside, you know. They
15 all thought combines were really something too.

16 There was a pause, and Jose and Thomas turned to Olie
17 and asked him what he thought was the greatest agricultural
18 technological invention of all times. And Olie rubbed his chin
19 and pondered for a while. And finally he said he thought that
20 the thermos was probably the greatest invention, that little
21 thing you take out in the field, you know, with you.

22 Jose and Thomas said, but Olie, the thermos? How can
23 that be, a thermos? Why, a thermos only keeps things hot and
24 cold things cold. What's so great about that. And Olie said,

1 yes, but how does it know?

2 (Laughter.)

3 MR. ENGEL: Which in a nutshell, or a thermos, if you
4 will, is the essence of the first, and actually the second point
5 too, that I would like to address today.

6 We are on the eve of the implementation of what we have
7 all hoped would be a great thing, the National Organic Program
8 and the National Organic Standards, a truly amazing
9 accomplishment, I think. A public/private relationship, the end
10 of a thirteen year effort to this point, beginning of a public
11 policy acknowledged ground swell in American agriculture towards
12 organics.

13 However, as with any policy, system, or tool, there are
14 problems that need to get worked out, and the problem referred to
15 by this little story about Jose, Thomas, and Olie, is the problem
16 of interpreting the NOS. How does this certification body, much
17 less an operator, know what is the correct interpretation of a
18 particular standard?

19 The problem that I'm identifying here is two-fold when
20 an agency makes a decision and the operator does not like it, and
21 goes to the NOP, and the NOP makes their own decision that is
22 different than the decision rendered by the agency.

23 And, B, when the NOP tenders a decision on an issue
24 that the vast majority of agencies and operators disagree with,

1 and which decision may seem to be in contradiction to the rule
2 and/or the law.

3 Simply put, this is not a good way to begin our
4 official public/private relationship, and it is not in keeping at
5 the due process, particularly the aspect of an agency making a
6 decision only to find that that decision being obviated by the
7 NOP's decision.

8 Kind of like Mom saying one thing to the child, and Dad
9 saying another. Not a good thing. The NOP did acknowledge, at a
10 recent NOSB meeting, that this was not a good thing, and that
11 they would try to not do it in the future. I believe this was in
12 Austin.

13 I stand before you again requesting that the NOP be
14 very, very careful to let the normal and correct decision making
15 process unfold in the matter of applying the correct
16 interpretation of the NOSB.

17 The NOP USDA as a body now is first and foremost an
18 accreditation body who oversees the certification bodies, and
19 ensures that they're in compliance with good operating
20 principles, and have sound decision making processes in place.

21 A decision emanating from a certification body should
22 not and cannot be allowed to be made invalid merely because the
23 NOP has a different interpretation in the procedural set up that
24 we're all investing in, and pledging to maintain. A

1 certification body makes the decision.

2 The operator either accepts that decision, or appeals
3 it, and eventually an appeal may make its way to the USDA, at
4 which point there is to be a process in place that takes that
5 appeal, and makes a final ruling upon which all parties must
6 abide. It is a very simple process, in my opinion.

7 The second item of concern to me is the one that we
8 have been talking about very much today, and that's the materials
9 process, not the process, the materials issue. And my comments
10 here are just totally all messed up now because of the things
11 that have been said, but basically the main issue to me is that
12 we need tools.

13 And I could stand here and say, if you have somebody
14 coming before you, like we have heard right from the beginning,
15 there's at least five or six people that have come here and they
16 have materials that they're interested in, one, or two, or
17 twelve, or seventeen.

18 They have a good case for them. I think they need to
19 be considered and approved. I don't find that that's a threat to
20 organic integrity, and Goldie, that addresses your question to
21 Hubert about the philosophical, how would you address this.
22 That's one way that I would address it.

23 If it's not an antibiotic parasiticide or hormone, give
24 it very serious consideration. A one time exclusion is not a

1 good way to do it. Animals have long lives. These are not
2 products that are there to be used continually, like a feed, or a
3 little bell and whistle that a farmer's going to drop on the feed
4 every day. They're there just to be used one time or two times,
5 whatever is necessary.

6 (Laughter.)

7 CHAIRPERSON CARTER: Okay. Thank you, David.

8 Emily Brown-Rosen, and then Zea Sonnabend.

9 MR. SIEMON: I hope you all appreciate the humor that
10 Wisconsin brings to these meetings. I hope it doesn't go
11 unnoticed.

12 (Laughter.)

13 MS. BROWN-ROSEN: Hi, everybody. I'm not going to
14 actually read my comments today. I just want to --

15 CHAIRPERSON CARTER: Identify yourself for the record.

16 MS. BROWN-ROSEN: Oh, sorry. Emily Brown-Rosen with
17 OMRI Organic Material Review Institute.

18 I just had some late comments I received from -- we had
19 circulated some of the livestock TAP reviews to our advisory
20 council, and I did get some very late comments which, I
21 apologize, I didn't get a chance to get to the Livestock
22 Committee before this meeting.

23 So I just wanted to draw your attention to this written
24 comment that I'm going to circulate to you, and I'm here if you

1 have any further questions about this material. Thanks.

2 CHAIRPERSON CARTER: Questions?

3 (No response.)

4 CHAIRPERSON CARTER: Okay. Thank you, Emily.

5 Okay. Zea and then Amha Belay.

6 MS. SONNABEND: Hi. Thank you.

7 I'm Zea Sonnabend here today representing California
8 Certified Organic Farmers Statewide Certification Committee.

9 We have a number of concerns that October 21st is
10 approaching and there are a few loose ends, and things that are
11 still hanging that we would like to see settled in writing.

12 First of all, all the decisions that NOSB made since
13 the rule was published, we have still not seen in writing that
14 those materials are going to be accepted along with the NOSB
15 recommendations with those. And we need that information that we
16 were told would be in the Federal Register before implementation.

17 Second of all, we're concerned about the Compost
18 posting on the website, with regard to Compost T. As a member of
19 the Compost Task Force, most of you are aware that we presented
20 this group in May with a recommendation that included Compost T,
21 as long as it was not made with added sugar.

22 The NOSB approved that recommendation. That
23 recommendation was not put on the website. What I read on the
24 website is that Compost T does not meet Section 205.203, which to

1 me reads that Compost T is now prohibited.

2 How are we as certifiers, with two months notice, going
3 to prohibit Compost T's, which are widely used in the field right
4 now, and all of our inspections are already conducted for the
5 year, or almost wrapped up? We need clarification about what
6 this means, and we urge the NOSB not to let this matter drop, and
7 let Compost T remain prohibited indefinitely, if that is, indeed,
8 the intent of the rule.

9 I don't think we can enforce it, being it posted as
10 only a guidance. I've already heard one other certifier say to
11 me, oh, it's guidance. I'm going to ignore that part. I don't
12 know if that's what the Department had in mind either, and so we
13 need some clarification.

14 And along with that, hopefully your enforcement
15 division is geared up by now, because I was on an inspection and
16 I found this label in the field for Compost T product. And
17 you'll notice -- I'm going to give this to Rick -- it has a USDA
18 seal on a Compost T product.

19 Ray Green can't enforce Compost T, so hopefully the NOP
20 will enforce it. Okay. We're also concerned, and I've addressed
21 you many times about the materials review process. We feel that
22 we are interested, like many speakers have said, that you do a
23 careful job, and we understand this takes time.

24 We are concerned, however, that things are getting

1 devoted TAP review resources, which really do not merit going
2 through a TAP review, and we strongly urge the NOSB Committee's
3 Crop, Livestock, and Processing, to really screen the petitions.

4

5 Some of them are looking frivolous to us. Some of them
6 are looking extremely special interest. Some of them are
7 natural, and don't need to be reviewed. And you have a limited
8 amount of resources, so please look at the petitions and make
9 sure that they are things that really merit going forward and
10 spending money to do TAP reviews on.

11 Okay. the CCOF Certification Committee wants to
12 mention that we support the continued use of Sodium Nitrate. We
13 agree -- at twenty percent. We agree with Craig Weku's letter
14 that the TAP review showed significant weaknesses in showing that
15 there is detrimental effects, particularly from a twenty percent
16 use of Sodium Nitrate as is in the field.

17 We were concerned by the posting on the website about
18 the proposal from BATF about wine labels. It is the certifier's
19 job to approve labels currently. We do not think it's a good
20 idea for BATF to be then turning labels over the NOP.

21 Why not have the certificate enclosed with the wine
22 label? If it is a certified product, it means the certifier
23 already looked at the wine label. Along with that goes -- I get
24 concerns from CCOF staff that our clients are calling us up

1 saying, the NOP told me this, the NOP told me that, and yet CCOF
2 can't get an answer from the NOP on the questions when we ask
3 them, only our clients can, and we can't verify it.

4 So we do urge NOP to have better service for the
5 accredited certifiers in response to them. So that's all I have
6 for now. I just want to mention that those of us who have doing
7 materials review for a long time are here to help you in any way
8 we can with historical background on some of these issues, which
9 have been discussed before, and some perspective on doing your
10 petition screening, if you'd like.

11 Thank you very much.

12 CHAIRPERSON CARTER: Rose.

13 MS. KOENIG: I'm assuming, you know, as far as your
14 comment, Zea, I'm assuming, based on Page 19 of our meeting
15 minutes in Austin, I made a motion to put a Compost update re
16 NOP's position on the agenda, and I'm assuming that Mr. Mathews
17 is going to address that during his comments.

18 MS. SONNABEND: About what the Compost situation is.
19 Okay.

20 CHAIRPERSON CARTER: Okay. Other questions?

21 (No response.)

22 CHAIRPERSON CARTER: Okay. Thank you, Zea.

23 Okay. Amha Belay or Kelly Morehead. Okay, I'm sorry.
24 Kelly Morehead is up then.

1 MR. BELAY: My name is Amha Belay, and I'm from
2 Earthrise Nutritionists, a company that produces Spurolena Micro
3 Algae (Ph.) for the health food industry.

4 Today I'm here in support of the petition to annotate
5 the rules for the use of Chilean Nitrate in Spurolena Micro Algae
6 production.

7 We understand and respect the concern of the NOSB on
8 the unrestricted use of Chilean Nitrate. However, we want to
9 stress once again the uniqueness of our aquatic Spurolena
10 production with respect to the application and use of Chilean
11 Nitrate.

12 First of all, we have -- we use liners in our ponds so
13 that there is no contact between the medium and the soil.
14 Second, we recycle the medium continuously throughout the growth
15 season. Third, we analyze the Nitrogen content of the medium
16 once a week, and we make adjustments, as necessary, in order to
17 avoid any overload with Nitrogen.

18 And fourth, the rate of Nitrate by the Algae is much
19 faster than conventional crops. The lifetime of these Algae is
20 only three to five days.

21 The second point we want to make is that we do not yet
22 have any alternative source of Nitrogen, which is solvent and
23 which is available in the quantities that we require. I want to
24 stress that Spurolena is a Micro Algae, which is sixty-five to

1 seventy percent Nitrogen on a dry, wet basis.

2 Therefore, the Nitrogen requirement for this particular
3 organism is much higher than again for conventional crops. We
4 therefore request the NOP to approve the annotation petition, or
5 at least give us a reasonable time period to do the necessary
6 research to come up with alternative missions and phase out our
7 current practices. Thank you.

8 CHAIRPERSON CARTER: Thank you.

9 Questions?

10 (No response.)

11 MR. BELAY: Okay.

12 CHAIRPERSON CARTER: Thank you.

13 Okay. Kelly Morehead and then Marty Mesh. And I don't
14 know if there's other -- there was a sign up sheet back there, I
15 don't know if we've had other folks
16 -- it's blank. Okay. So Marty will be the clean up batter.

17 MR. MATHEWS: Oh, no, we have a few people that have
18 arrived earlier and --

19 CHAIRPERSON CARTER: That's true. Okay. Go ahead.

20 MR. MOREHEAD: Hello, I'm Kelly Morehead with
21 Cyanotech Corporation. We're the other half of the U.S.
22 producers in Spurolena. So once again, you have all the
23 producers of a particular crop at your meeting.

24 I spoke to you briefly in Austin, and I'd like to

1 comment a little bit on the TAP reviews and follow up with what
2 Dr. Belaya (Ph.) said.

3 One thing I'd like to explain is that Spurolena, as a
4 Microscopic Algae, is harvested on screens and it's very, very
5 fine, so that if there's components in the growing media which
6 are not soluble, that are fibrous or whatever, then they get
7 carried over with the crop and dried and fed to people.

8 So it's a little bit different than a crop where you
9 can, you know, wash your potato off. And we do rinse Algae
10 through three rinsings, but we have to be careful about that, and
11 that's why alternatives to Nitrate, such as manures, have to be
12 handled very carefully.

13 We do work with some chicken, some processed Composted
14 chicken manure, and try and get some soluble nutrients out of
15 that, but we have to be careful. I don't think that the organic
16 standard really says that there's no mined materials.

17 I mean if you look at lime, rock phosphate, potash,
18 you've got a lot of mined materials that are used on a regular
19 basis. In looking over the TAP review, it seemed like a special
20 condition for Spurolena seemed to be being applied in the
21 reasoning there.

22 The lakes that Spurolena grow in contain very high
23 amounts of soluble Nitrogen, in the form of Nitrate. It usually
24 expresses Potassium Nitrate, two and a half grams per liter,

1 which is really, really thick.

2 Our systems use lined ponds, and we do recycle the
3 media. The TAP reviews, which were very thorough, I thought. I
4 did correctly identify one issue, you don't just get Nitrate when
5 you add Chilean Nitrate to the water. What happens to the
6 Sodium? It does build up and Spurolena can tolerate very, very
7 high levels of Sodium. It's a salt loving organism, but
8 there's a limit to how far that can go out, and there is media
9 that leaves a system. I mentioned last time that we have a marsh
10 lagoon that also serves as a bird refuge, that we received an
11 Audubon Society award for, a fledgling on endangered species
12 there, and that's where our access media goes.

13 On a yearly basis, a certain amount goes in there. The
14 sediments are area of de-nitrification, which means that left
15 over Nitrates converted by bacteria into Nitrogen Gas, and also
16 that area and all the areas along the ocean where our facility
17 is, we have ground watering monitoring by the State of Hawaii,
18 who is our landlord.

19 And we detect it, if there is a problem. We have
20 detected a problem before. It didn't come from there, it came
21 from a damaged pond, which we picked up, we repaired. So there's
22 a system in place. And I think if that were a part of the
23 requirements that there be an effective ground watering
24 monitoring well near the facility, that would be good.

1 I don't think any other agriculture system in the world
2 goes to the extent, or to my knowledge, most farms of watching
3 their effluent, and watching what comes out of their system.

4 We're recommending that you give us an annotation to
5 allow continuing use. If you're not happy with that, considering
6 the phase in of alternatives, we have word with -- there's a
7 recommendation with TAP review of blood, dried blood.

8 A lot of vegetarians use our product and they object to
9 that, and specifically ask if we use bone meal or blood meal, so
10 we have to watch that. And we have to develop something that
11 will work, and we haven't been able to find it. We've been
12 looking at fish protein and a number of things.

13 So -- which also has issues with vegetarians. So
14 please, don't run us out of this. There's a lot of green
15 products that use organic spurolena that will have to remove it,
16 if there's no alternative.

17 CHAIRPERSON CARTER: Okay. Thank you, Kelly.

18 Questions? Kim.

19 MS. BURTON: Can you tell me what your annual
20 production is in Spurolena?

21 MR. MOREHEAD: Altogether, we're about fifty percent,
22 about 150 tons of Spurolena.

23 MS. BURTON: 150 tons, so fifty percent organic?

24 MR. MOREHEAD: I'm sorry, 150 tons would be organic

1 production.

2 MS. BURTON: So you're a split operation?

3 MR. MOREHEAD: Yes.

4 MS. BURTON: And do you manage both systems the same
5 way, organic and conventional?

6 MR. MOREHEAD: There is, as far as the lagoon does
7 receive some conventional effluent on an annual basis to avoid
8 build up of too much minerals in that system too, but there's no
9 co-mingling of the media.

10 MS. COOPER: George.

11 MR. SIEMON: When you just said the word green, I was
12 a little confused what you meant.

13 MR. MOREHEAD: Oh, in the nutrition industry there's
14 these green drinks with barley, grass, and wheat grass powders,
15 and Spurolena. You know, a lot of times, Spurolena, because it
16 has a really strong nutritional profile, will be a lead
17 ingredient in those formulas, and so --

18 MR. SIEMON: But not for the color?

19 MR. MOREHEAD: Not --

20 MR. SIEMON: The word green, I just wanted to see is
21 it being used for color, or just used for nutritional?

22 MR. MOREHEAD: Oh. Well, these things, all the
23 ingredients are green in them pretty much, yeah. Like they have
24 the ==

1 MR. SIEMON: I just wanted to know what you were
2 referring to.

3 MR. MOREHEAD: Yeah, that was a little ambiguous.

4 CHAIRPERSON CARTER: Yeah. Mark.

5 MR. KING: Did I hear you correctly that you represent
6 approximately fifty percent of the organic Spurolena market?

7 MR. MOREHEAD: Well, there's only two producers of
8 organic Spurolena at all in the United States. One is Earthrise
9 Nutritionals, a colleague who spoke earlier, and the other one's
10 Cyanotech in Hawaii.

11 The TAP reviewers visited the Earthrise facility.
12 Probably for logistics and cost they didn't come to Hawaii, but I
13 would have liked to have been able to input on that, so here's
14 where we do it.

15 CHAIRPERSON CARTER: The NOSB may have to handle that
16 job personally.

17 (Laughter.)

18 CHAIRPERSON CARTER: Owusu.

19 MR. BANDELE: Yeah. I just wanted to know what
20 conditions led to you having to add conventional ingredients in
21 those ponds that are not organic, and how do you deal with those
22 same problems in the organic production scheme.

23 MR. MOREHEAD: Okay. So in other words, in the
24 conventional system, we'd use Potassium Nitrate instead of

1 Chilean Nitrate, which is actually a little better for us in some
2 cases, because we don't get some of the carry on -- the bore on
3 it from some of the other ingredients.

4 We started out as a conventional producer, and about
5 eight years ago started the organic production. And then devised
6 separate systems for that.

7 Did I answer your question?

8 MR. BANDELE: Yes.

9 CHAIRPERSON CARTER: Okay. Other questions?

10 (No response.)

11 CHAIRPERSON CARTER: Okay. Thank you.

12 Marty Mesh, who will talk about mandated sprays and
13 other stuff, and then we'll go back and catch up with some of
14 that, but no clean up activity.

15 MR. MESH: I assume you all got my proxies to add into
16 my time.

17 (Laughter.)

18 CHAIRPERSON CARTER: Begin your comments.

19 MR. MESH: And I need at least a two minute warning.

20 So good morning. I'm Marty Mesh of the EDO of Florida
21 Growers and our Quality Certification Services. I serve on
22 different Boards, but to save time I'm not going to list them
23 all. I apologize for not having typed comments and if it will
24 help move the process forward, I'll be happy to type them.

1 Over the last few years, since the final rule was
2 published in the Federal Register, I have tried to articulate
3 very clearly numerous times the need to formally link Sections
4 205.671 and 205.672. Just to review, I can read from the last
5 public comments in Austin.

6 USDA has stated that a recommendation from the National
7 Organic Standards Board could link the two sections together.
8 Otherwise, growers affected by a government mandated spray
9 program, whose product has no residue, or certainly less than the
10 five percent of EPA tolerance, would not be able to market their
11 produce as organic.

12 Government mandated spray programs are in place in
13 numerous States at various times for such things as lime disease,
14 citrus canker, med fly eradication, mosquito abatement,
15 encephalitis, to name only a few. The recent ratcheting up of
16 awareness from West Nile again brings us to the forefront.

17 The program manager -- the former program manager,
18 Keith Jones, may not want to sit next to me after I get back, is
19 the one that made the statements that I quote.

20 The current program manager, Mr. Mathews, and Ms.
21 Robinson, told me in Austin that they had discussed the situation
22 with him and tried to identify possible ways for correction. So
23 I come again, you know, asking for a status report on how we're
24 going to rectify the situation.

1 Especially with West Nile, it's simply not fair and
2 just for something that has drifted upon pesticides, to be sold
3 on the organic market with less than five percent of the EPA
4 tolerance, but something that may have no residues or a very
5 minute amount, no detectable residues resulting from a government
6 mandated spray program, not to be sold without the farmer being
7 compensated by the appropriate government agency.

8 Although this last scenario would be preferable from
9 the consumer perspective, as well as the public health position,
10 about the exposure to unwanted sprays -- for example, I have no
11 air conditioning in my house with windows open.

12 On more than one occasion when a mosquito abatement
13 truck came down the road, dirt road, and sprayed in my kid's
14 windows, or on the front side of the house, but if you're not
15 going to solve it that way, the more immediate way would be to
16 address the problem to link the two sections together.

17 MR. RIDDLE: Two minutes.

18 MR. MESH: Huh?

19 MR. RIDDLE: Two minutes.

20 MR. MESH: You got to be kidding.

21 MR. RIDDLE: You said you wanted it.

22 MR. MESH: I'd like an answer from USDA -- I'm going
23 to skip through. On behalf of the OTA's who are getting
24 certifier's counsel -- as co-chair I want to update the program

1 and the Board on an effort to gain consistency among all
2 accredited certifiers as to the implementation on the rules.

3 The industry will develop a consistent operating
4 national program practice guidelines, which will help achieve one
5 of the basic purposes of the OFPA, which is to assure consumers
6 that organic produced products meet a consistent standard.

7 I've got to skip all the rest of it because of Jim.
8 But we look forward to working with the program, as well as the
9 National Organic Standards Board on getting input on issues that
10 we don't have consistency on.

11 I was going to talk about the status of the
12 accreditation manual, but I'll skip that. I'm wondering about
13 the peer review panel, which has been brought up as well, which
14 was mandated in the law.

15 You know, the Accreditation Program is critical, the
16 Peer Review Program, for widespread confidence in the USDA
17 Accreditation Program. I must again encourage communication
18 between the USDA and the private sector accreditation, which may
19 be able, in the future, to offer to do not only a credible job at
20 a lower cost than government accreditation.

21 It would help clarify the perceived fuzziness when I
22 read published newspaper articles on USDA organic certification -
23 - on organic certification by USDA, as well as the USDA
24 Accreditation Program.

1 I need some answers on whether Nitrogen Gas can be used
2 a hundred percent in certified organic coffee. What constitutes
3 an ingredient? Is Gas an ingredient? You know, a technical
4 correction on what processor's labels are dependent upon, a
5 clarification which we've yet to get from USDA.

6 We --

7 MR. RIDDLE: Time. Finish the sentence. You said we.

8 MR. MESH: We still need some clarification on Compost
9 T, as well as the issue of whether or not one time -- the one
10 time usage, material usage, would be very hard to track, as a
11 certifier, when the Board makes decisions on --

12 (Whereupon, the hammer sounds.)

13 MR. MESH: It's a run-on sentence.

14 (Laughter.)

15 MR. MESH: You could ask me a question if you want on
16 decision making and how it affects on the grounding in the
17 regulatory context. You know, your decisions have to be verified
18 for us out there.

19 Now my other proxy with either hat on.

20 CHAIRPERSON CARTER: No, you did not file a written
21 proxy. Let's open it up to questions.

22 MR. MESH: Is it clear?

23 MS. BURTON: Jim will ask you a question.

24 MR. RIDDLE: Yeah, you caught my attention with this

1 Nitrogen Gas and a hundred percent labeled product. Like you
2 mean in the head space, or package filling? Is that considered -
3 -

4 MR. MESH: Yes.

5 MR. RIDDLE: -- a processing aid, or is that part of
6 packaging, or is that --

7 MS. BURTON: How we've handled it thus far is that if
8 you're using Nitrogen, say the head space of the can, it is
9 considered -- it's a processing aid and it doesn't need to be on
10 the national list. It's not a hundred percent organic processing
11 aid, so --

12 MR. RIDDLE: So then the product could not be labeled
13 a hundred percent organic, if that was used.

14 MR. MESH: So something couldn't be labeled as a
15 hundred percent certified organic if Nitrogen is used in the
16 packaging process? It's an ingredient.

17 MR. RIDDLE: We've got to resolve where the fence is.

18 MS. BURTON: Another one. I wrote it down.

19 MR. RIDDLE: As the fact that there is no fence, the
20 answer is no, you couldn't label it a hundred percent. If we put
21 a fence around what the Board should be looking at for processed
22 products, then the answer might change.

23 MR. MESH: You want my joke? I brought you a joke.
24 Just I'm the last speaker.

1 CHAIRPERSON CARTER: No, you're not. There are
2 others.

3 MR. MESH: I'm always the last speaker.

4 CHAIRPERSON CARTER: I'm going to have to cut off your
5 -- as much as I like to hear a good job.

6 We're having public comment on Thursday, as well, so
7 you know, keep us in anticipation.

8 MR. MESH: Well, all right. There's a release today
9 of a genetic engineered study, which you may be interested in.
10 It just hit the presses and my joke was in relation to that.

11 CHAIRPERSON CARTER: Okay. Thank you.

12 All right. Let's go back through, and those that -- we
13 had James Hahn.

14 Diana Kalenowski.

15 Jess Clark.

16 Okay. Donald Loveless.

17 Dio Pesticides Industry Alliance.

18 That's all I have.

19 Oh, we have Valerie Francis.

20 MS. FRANCIS: Oh, I didn't confirm --

21 CHAIRPERSON CARTER: Okay. I'm sorry. So you don't
22 want to -- okay.

23 MR. MESH: Do you want me to speak for you?

24 (Laughter.)

1 CHAIRPERSON CARTER: Marty, you did get to be -- the
2 honor of the last speaker. Okay. With that, the agenda calls
3 for the NOP report, but I think we'll delay that until after
4 lunch.

5 So I did forget to take care of one item, parliamentary
6 item this morning when we convened. I forgot to call the roll,
7 but I just do want the minutes to reflect that everyone is here
8 except for Rebecca Goldberg, who had previously notified us that
9 she would be absent through this meeting, so that needs to be
10 part of the record of the minutes.

11 With that then, let's go ahead and we will recess until
12 12:45. One hour recess.

13 (Whereupon, at 11:45 a.m., a luncheon recess was taken, to
14 reconvene at 12:45 p.m., in the
15 same place.)

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A F T E R N O O N S E S S I O N

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(Time Noted: 1:00 p.m.)

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CHAIRPERSON CARTER: Let's go ahead and reconvene the meeting. And again, anybody that has cell phones turned on during the break, either turn them to vibrate or turn them off.

Okay. Next on the agenda then is for an update from the NOP, and Barbara and Rick, I don't know how you've -- looks like they're flipping a coin right now to see who --

MS. ROBINSON: Keith has to leave at 1:30 and so what we want to do is let Keith talk for a minute about the issue of ISO and accreditation.

CHAIRPERSON CARTER: Okay. Keith Jones, who has to leave at 1:30, come forward and talk to us about ISO and accreditation in -- you need to speak into a mike. You have to speak into a microphone. We don't want to miss -- you can turn it around and face --

(Laughter.)

MR. JONES: All right. I understand there's an issue regarding ISO 65 and the Accreditation Program, but I don't know what that issue is, so --

CHAIRPERSON CARTER: First of all, Keith Jones from the NOP.

1 MR. JONES: Yes, that's who I am, Keith Jones from the
2 NOP.

3 I understand that there is an issue, or there has been
4 a concern raised by the Board about the linkage, if there is any
5 linkage, between the ISO 65 Program and the NOP Accreditation
6 Program.

7 I don't know what the specific question is. If
8 somebody could articulate that question?

9 MS. ROBINSON: I'll tell you what it is.

10 MR. JONES: Okay.

11 MS. ROBINSON: Okay. Here's the issues that we've
12 heard today, and someone can correct me if I'm wrong.

13 But, number one, that, you know, we had ISO until we
14 had NOP accreditation. Now we have NOP accreditation. Foreign
15 countries are still requiring that certifying agents be ISO
16 Accredited for product to come into their country.

17 And that this represents duplication of work on the
18 part of certifying agents to be both ISO accredited, and NOP
19 accredited, and an undue expense.

20 MR. JONES: Okay. Thank you.

21 MR. MATHEWS: Well, there's one other issue too. That
22 the NOP doesn't meet all of the requirements of ISO.

23 MR. JONES: Okay, okay. Let me handle the latter
24 first. And I state this unequivocally. The NOP Accreditation

1 Program meets every objective that is laid out under ISO Guide
2 65. That is the long and short of it, that is the end of the
3 story. Okay?

4 We're preparing a document that will demonstrate that.
5 Okay? Keep in mind, folks, in the context of international
6 trade, you don't look at specific language. Specific language
7 does not have to match up verbatim to be equivalent.

8 You look at the objectives of the programs and the
9 objectives of the processes, and they are indeed equivalent. No
10 question about it.

11 Now, in terms of how this works out, ISO 65 is an
12 export program. It is designed to meet not domestic
13 requirements, it is designed to meet the requirements of
14 countries that we export to. We have no jurisdiction over those
15 requirements.

16 If they want to tell us to fly to the moon and back in
17 order to get into their country, that is their prerogative to do
18 so and we have to abide by that. That is why that program was
19 set up. It was set up to specifically address an entrance
20 problem into the European union.

21 Now, since that time, since June of 1999, other
22 countries have adopted ISO Guide 65 as their benchmark standard
23 for determining whether certifiers are competent and capable to
24 apply a given technical standard. And that is their prerogative

1 to do so.

2 So ISO 65 is indeed becoming in wider usage, but they
3 are two separate programs. And any notion at this point to try
4 to link those programs could be detrimental to the ability to
5 trade product. Okay? So that's why we still have the two
6 programs. It is designed to meet specific export requirements.

7 Now, in terms of the cost, that's a cost of doing
8 business that certifiers must make a business decision on.
9 Whether the marginal profitability of having the additional ISO
10 65 assessed program is worth it, that's a business decision that
11 certifiers have got to make that we really don't have any control
12 over. We just provide the service.

13 Now, when we go into an equivalence determination, in
14 other words when we are asked, or when we are asking a country to
15 essentially recognize our program through an equivalence
16 determination process, as in the case that we're engaged in right
17 now with the European union, we will be looking, they will be
18 looking on an objective-by-objective basis.

19 And it is our position that our Accreditation Program
20 meets every objective that is laid out in ISO Guide 65.

21 MS. ROBINSON: I want to add one point about the cost.
22 If I recall, we have not billed anybody for accrediting over
23 fifty certifying agents to date, and we said we would not charge
24 anyone who applies to be a certifying agent in the first eighteen

1 months after the rule was published.

2 So I don't think anybody's incurred any additional
3 costs unless they were asking for ISO, and I think what the --
4 our folks did, the accreditation review, the audit review folks
5 that are doing this for us, I think all they charged even for ISO
6 was the additional per diem costs for staying out there for
7 another day to look at sites.

8 So I don't -- you know, maybe in the future that might
9 become an issue, but right now cost really isn't an issue.

10 MR. JONES: Yes. And let me reiterate that, folks.
11 What is happening right now is that the Arc Branch is only
12 charging the marginal difference for doing the ISO assessment.
13 Okay? So the vast bulk of the charges are being -- for our
14 account, okay -- only the marginal difference for the ISO 65
15 Program.

16 CHAIRPERSON CARTER: Okay. Questions from the Board.
17 Okay, we have one from the audience. You need to come up and
18 speak into a microphone, so it's on record.

19 Okay, I'll repeat it. Just go ahead and ask it very
20 quickly and then I'll repeat it so we can get it on the record.
21 (Whereupon, a question is asked from the audience.)

22 QUESTIONER 1: The concern evidently is that the
23 European Union, given some date, October 22nd or so, is going to
24 create again another one of these hindrances to importation into

1 -- country.

2 So I understand ISO and all this other stuff, but the
3 real question is, is there going to be a problem from your
4 perspective, one.

5 CHAIRPERSON CARTER: Okay. Question from the audience
6 is that equivalency or barrier is getting into the --

7 MR. JONES: Yes, let me address that, Dave.

8 There has been some confusion that was unfortunately
9 generated by some folks, I think, whose intentions were good, but
10 language in a letter was not precise, that gave the Commission
11 the impression that upon full implementation of the program, the
12 only standard that a certifying agent could apply in this, in the
13 United States, was the NOP.

14 Well, obviously, certifying agents are free to apply
15 any standard they went to for an export standard. Okay? We
16 jumped on that very quickly. We made an additional contact with
17 Ucrofts, which is the accreditation body for the United Kingdom.
18

19 We explained the situation that was resolved really in
20 a matter of about three days with Ucrofts. Those import
21 authorizations continue in place until 2005. We also raised it
22 as an issue with the Commission in an additional letter from
23 Administrator Yates.

24 The Commission acknowledged that letter, and as of

1 yesterday, had contacted all the member States to say that import
2 authorization should remain in place. So at least we believe, at
3 this point, that is not an issue. We have not heard it to be an
4 issue, and believe that that problem is completely solved.

5 CHAIRPERSON CARTER: Okay. One follow up and then
6 we've got to -- okay.

7 QUESTIONER 1: So, Keith, you're basically saying to
8 your knowledge, dealing with the EU itself, if you get a
9 determination that's acceptable from one State within the EU
10 States, then it applies to all of the States. We've got that
11 clear, right?

12 MR. JONES: No, that's not what I said.

13 QUESTIONER 1: Well, I'm just asking you actually, I'm
14 not --

15 CHAIRPERSON CARTER: Okay. The question is, approval
16 from one applies to all in the EU?

17 MR. JONES: The way the process works with the EU is,
18 you make a request under the Article 11 provision, which requests
19 essentially to be placed on the third country list. IMS has done
20 that. IMS has requested for the United States to be placed on
21 the third country list.

22 We have engaged, and are engaged, in technical
23 discussions regarding that request. We are not dealing with
24 individual member States, we are dealing with the Commission.

1 That is the body in which we deal with. Okay? So we don't have
2 to go to individual member States.

3 Keep in mind, folks, the way these import
4 authorizations are set up in the case of the import
5 authorizations, you're meeting the technical standard of the
6 importing country. In this case, EU 209291, and that issue has
7 been resolved. It's been addressed and resolved.

8 Step two is the larger discussion of the placing of the
9 United States on the third country list under the Article 11
10 provision, and we're engaged in that process as we speak.

11 CHAIRPERSON CARTER: Questions from the Board.

12 MR. MATHEWS: Well, just a follow up there just to
13 make it really clear.

14 Right now, in the short term, it's each certifier can,
15 on their own, having to show that they do certify to the
16 additional requirements of 209291 and our ISO 65, and that's
17 getting --

18 MR. JONES: That's right. That was the import of the
19 original import authorization, and that continues. And as far as
20 we know, continues until those import authorizations expire. In
21 the case of Ucrofts case, they expire in 2005.

22 CHAIRPERSON CARTER: Other questions from -- okay,
23 thank you.

24 MR. JONES: Okay. You guys have a good meeting and if

1 I can get back, I will try to do so. Thank you.

2 CHAIRPERSON CARTER: Just, you know, while Keith is
3 leaving, before we have Barbara and Rick get up, and just to
4 acknowledge the folks that are here in addition to Keith, Arthur
5 Neal and Katherine Benham here from NOP.

6 And we appreciate all the work that they have done over
7 the last few months in trying to get this thing headed toward
8 October 21st. So with that -- and Demaris Wilson is here also,
9 who's on detail to the NOP, so I appreciate all the work.

10 Go ahead. Who's up?

11 MS. ROBINSON: Okay. October 21st. October 21st, we
12 go into effective implementation. There's nothing in the way
13 that's going to cause that date to get derailed. Secretary
14 Veneman has just let our offices know that she will be attending
15 the roll out that's going to take place at the Whole Food Store
16 up on P Street.

17 But that's what we've got, so we'll be preparing some
18 remarks for her, and try to get some more details from her about
19 that later.

20 Let's see. I just signed the press release yesterday
21 for the additional Cost Share, the expansion of the Cost Share
22 Program to all fifty States for producers and handlers. That's
23 different than the original.

24 The original was just fifteen States, only producers.

1 This expands the program nationally and includes handlers. We'll
2 enter into cooperative agreements with all the States, and
3 transfer money to them so that that can get underway. We expect
4 that will probably begin to happen later this fall.

5 I want to address two issues that have come up in
6 comments this morning, but deal with some of the work that we
7 have been doing. One comment was made about whether or not we
8 have the -- well, three. Let me start at the beginning.

9 We've heard several times about us not getting in the
10 way or in the middle of conversations between certifying agents
11 and their clients. Now, we don't want to get in the way. Okay?
12 We stand by the people that we accredited to be certifying
13 agents. We think you're -- you know, you've got a job to do, and
14 we expect you to do the job.

15 We also happen to be a federal agency. Therefore, we
16 cannot say to anybody who knocks on the door, sorry, we don't
17 talk to you. They pay taxes just like the certifying agents, and
18 I don't really want to explain to the Administrator, or the Under
19 Secretary why it is I refuse phone calls from clients.

20 However, we have agreed that the first thing that we
21 will say to any clients is, who is your certifying agent? And,
22 you know, we'll get both sides of the story, and then we will try
23 to talk to both sides simultaneously, so that we're not, you
24 know, we're not getting the signals mixed.

1 Now, I want to say a couple of other things about that.
2 Number one, just because, you know, you may be the certifying
3 agent, and you may be hearing from clients, well, NOP told me
4 this, and NOP told me that and, you know, maybe you ought to stop
5 and think once in a while. Maybe NOP didn't tell them any of it.
6 Okay?

7 That's always a possibility. You know, I'm a kid from
8 a big family and we used to do but Mom said it was okay, and we
9 maybe never talked to her. So I'd be a -- you know, don't just
10 swallow that first crack off the bat.

11 But when you have those disagreements too, I mean talk
12 to us. We are trying to put -- we tried to take the certifying
13 agent web page, the website, and turn it into a message board.
14 We talked about doing this in Austin so that anything anybody
15 sent into us, everybody could see it.

16 You could all get on the site and see it, and you could
17 actually post messages to that site, and hopefully save us some
18 work and, you know, save yourself some aggravation too. We're
19 having a lot of problems trying to get that through, because --
20 well, for the simple reason, folks, that computer security is
21 just a big, big deal right now.

22 And so I'm having to jump through more hoops than I
23 thought I would. It's been suggested I go out and get a
24 contractor who'll monitor the site. And I don't want to do that,

1 so I'm trying to figure out some other ways that we can take all
2 the fan mail that we get, and somehow -- well, we're excluding
3 some of it, but --

4 (Laughter.)

5 MR. JONES: Take it all and somehow put it someplace
6 where everybody can see it. Because I realize, you know, it was
7 hardly fair of us to say, well, hey, we'll set up this certifying
8 agent website, and send us your questions, and then we don't
9 answer them, and we sure don't answer them very quickly, so
10 everybody gets frustrated.

11 So why would anybody use it. I mean that was kind of
12 dumb. So we're trying to figure out a way to fix that. I
13 realize we say that a lot but, you know, it's a learning process
14 for us too.

15 On the matter of whether or not we will turn around and
16 say to certifying agents, will you bless the labels for organic
17 wine and beer, we aren't going to do that. We are never going to
18 do it.

19 ATF has the regulatory and the statutory authority and
20 the mandate to approve labels that go on alcoholic beverages.
21 Only they do. We don't, and neither do you. And none of us
22 will.

23 ATF, because we allow organic alcoholic beverages to be
24 produced, ATF has come to us and said, do you want to help us out

1 because we don't really want to become organic experts, we just
2 need your expertise. That's why we're involved in doing
3 this, but we would -- you know, ATF is not about to give over
4 that authority to anybody outside of themselves.

5 The same goes for meat products. That is FSIS'
6 statutory responsibility. They must approve labels that go on
7 meat and poultry products. They are a sister agency to us.
8 Therefore, they will be a lot more cooperative in passing stuff
9 over to us and saying what do you think.

10 But that's just the way it is and, you know, you can
11 say that you'd like the certifying agents to do it forever. Just
12 like the ISO and the accreditation, it's a U.S. Government
13 responsibility and authority, and the U.S. Government isn't going
14 to give it up, so -- sure.

15 MR. MATHEWS: Don't take from that that you're not
16 supposed to be looking at labels. Certifying agents are supposed
17 to be working with their clients to make sure that they are
18 labeling their products in compliance with the organic standards.

19 What we're really saying is that you are not the last
20 word in whether or not the label is correct. You are the first
21 word as to whether the label is correct or not, then that label
22 goes through the review for whether or not it meets the Alcohol
23 Beverage regulations, and whether it meets the meat regulations
24 of FSIS.

1 MS. ROBINSON: Right. And in most cases, these are
2 like pre-approvals. The product hasn't been labeled. These are
3 people submitting -- companies sending in saying, here's what
4 we're thinking of doing, using as a label.

5 Rick is right. I don't mean to suggest the certifying
6 agents should just look the other way whenever they see a label.

7 On Compost T, the reason that we -- if you go back to
8 the original issues that we had on Compost, there was a lot of
9 concern from certifying agents, and from producers, that the way
10 the Compost provisions were written in the Reg, it was too narrow
11 in scope. It ignored some very good basic organic practices that
12 producers use out there.

13 So we went back and we spent a long time looking at
14 this, and I walked around, I was the Compost Queen for about six
15 weeks, reading everything I could find on Compost. And the task
16 force went out and did a lot of research as well, and looked at,
17 you know, what practices could be admitted as legitimate organic
18 practices.

19 The bottom line in the Compost recommendations, maybe
20 not even the bottom line, but maybe the most paramount
21 constraint, when we decided to even look at this was, don't bring
22 anything back that in any way raises the specter of a food safety
23 or a pathogen contamination issue, because if you do, it's a non
24 starter.

1 Now, I don't say that it's a non started forever and
2 ever and ever, but for the moment the signals from policy people
3 throughout the government, not just USDA, but remember, a lot of
4 other agencies were involved in this, EPA, even OMB got into it.
5

6 This was one of the most hotly contended parts of the
7 final regulation. And when it was finally settled and put to
8 bed, the official word was do not, do not bring up a food safety
9 problem with this program.

10 So the reason Compost T's are not in the final
11 recommendation is that it was just -- we could open the door and
12 look, and do what we did, and acknowledge some of these other
13 practices, but to go to Compost T's was just going to mean that
14 you got nowhere. You'd have lost everything.

15 Now, there may be -- you know, and if you go back and
16 you read the preamble, where Compost T's are discussed, the
17 language in the preamble is not very favorably inclined towards
18 Compost T's. It talks about the possibility of, you know,
19 pathogens and safety problems arising and so they weren't going
20 to be considered.

21 So that's why it's the way it is. But I just would
22 like to say, I think it's broader than what's -- if you were left
23 just to rely on 205.203, this gets producers -- this allows them
24 to do a lot more things. Sorry that the Compost T isn't in there,

1 but you know, we've got to go at this incrementally.

2 That's it for me.

3 CHAIRPERSON CARTER: Okay. Question Jim, and then
4 Rose.

5 MR. RIDDLE: Yeah. On that Compost T language, as I
6 recall the recommendation from the task force and from the Board
7 was that the Compost T issue be set aside, but the way it's
8 worded on the web posting as, I think, Zea indicated, it looks
9 like Compost T cannot be used.

10 MS. ROBINSON: I think that's correct.

11 MR. RIDDLE: But no one can use Compost T in organic
12 production?

13 MS. KOENIG: No, that it can't be used as a Compost.

14 MR. RIDDLE: Pardon?

15 MS. KOENIG: It can't -- it's not considered Compost,
16 it would be considered raw manure, as far as I understand it.

17 CHAIRPERSON CARTER: Okay. Barbara.

18 MS. ROBINSON: I hadn't thought about it. I'm sorry.
19 No, you just wouldn't call it Compost.

20 And I think what you have to do, as the producer, and
21 as the certifying agent, I think the prudent thing that has to be
22 done is you've got to do the right testing on that stuff,
23 whatever you're going to call it, to demonstrate that it's going
24 to be pathogen free.

1 So you've got to get it to a temperature -- I don't
2 know, I'm really not a Compost expert, in spite of the fact that
3 I read a ton of stuff on it.

4 MR. RIDDLE: It's a pathogen free foliar feeding
5 material.

6 MS. ROBINSON: Yeah, it's what we call soil moments,
7 right?

8 MR. RIDDLE: Yeah, it's a foliar nutrient.

9 CHAIRPERSON CARTER: Okay. Rose, did you have --

10 MS. KOENIG: Yeah, I had a question. I was going to
11 answer what I thought was the answer. The only thing on
12 clarification is that if it's not Compost, in my mind, it's a
13 fertility product considered like a raw manure.

14 And by that means it could be used, but you'd have that
15 waiting period as specified in the rule. Now, for some crops
16 it's a null issue. I mean there's not going to be enough time
17 when you would apply it and when you could harvest it.

18 But on perennial crops, maybe, like citrus or something
19 like that, it probably could be foliar applied before the crop
20 was harvested, but with the given time periods.

21 But my other question was, had to do with not
22 necessarily Compost T, but as I understood it, Zea's question
23 was, what is the fate of that task force recommendation that was
24 post it on the web, and what certifiers can then use.

1 Does the task force recommendation become what the USDA
2 is going to require of certifiers? Is that the policy now? Is
3 that considered a policy?

4 How does it go from a recommendation of a task force to
5 policy?

6 MS. ROBINSON: Yes. I mean it's not officially
7 adopted as a policy, but I mean I don't see that we wouldn't have
8 -- I don't see why we wouldn't adopt it as a policy.

9 When I put that disclaimer up there, it was basically
10 to say, I mean here's what the task force recommended with the
11 exception of the Compost T. And so -- so that, you know, the
12 only reason that went up there was so that folks would know we
13 didn't make it up, the Compost Task Force did it.

14 That was the only reason that was done like that. So,
15 you know, it's not -- it's like any other issue. I mean it can
16 be revisited, I suppose, but why wouldn't you just give this some
17 time, go with it, and see how this works.

18 CHAIRPERSON CARTER: Okay. Other questions?

19 MR. SIEMON: I'm still not clear, Barbara, come
20 October 22nd, in relationship to what other ramifications for a
21 person using, quote, unquote, Compost T or whatever you want to
22 call it.

23 Are you saying that as long as it's not cold Compost T?

24 MR. JONES: No.

1 MR. SIEMON: What's the bottom line on that? I'm
2 still confused.

3 MR. MATHEWS: The bottom line is, if you're going to
4 use Compost T, you're going to treat it as if it were raw manure
5 and put it through the time frames that are specified in the
6 Regulations for the use of raw manure.

7 MR. SIEMON: I've asked this question before, but it's
8 still not clear in my mind in terms of if Compost has been
9 formulated based on the accepted recommendations as in the rule,
10 and if molasses is a naturally occurring substance, then how can
11 we take the position that it's not legal to use it?

12 MS. ROBINSON: Well, I'll use the same example that I
13 thought of before, some Hydrogen and water are also allowed.
14 Now, shall we make bombs? I mean just because one substance is
15 okay and another substance is okay, then their combination should
16 be okay? I don't think it necessarily follows.

17 And I cannot think of any worse event for the organic
18 community than for someone to get some kind of illness and it
19 somehow be traced back to a farm where Compost T was applied and,
20 you now, God forbid us, but it was applied haphazardly or
21 inappropriately, you could just kiss this thing goodbye.

22 I mean I've got to err on the side of caution. I can't
23 -- and protect against a food safety problem. You don't want
24 that. You don't want that kind of press.

1 The minute people start thinking, oh, my God, the raw
2 manure. You thought you had problems with sludge. If people out
3 there, the average consumer gets wind and gets the idea that raw
4 manure is being dumped on the fields and then, you know, lettuce
5 is coming out of it and it's going into the grocery store, forget
6 it.

7 MR. O'RELL: And I would refer you to 205.203(c),
8 which reads, "The producer must manage plant and animal materials
9 to maintain or improve soil organic matter content in a manner
10 that does not contribute to contamination of crops, soil, or
11 water by plant nutrients, pathogenic organisms, heavy metals or
12 residues of prohibited substances."

13 I point out the pathogenic organisms as a key part of
14 that provision. You are prohibited from increasing the chances
15 of pathogenic organisms, even though the molasses is a natural
16 ingredient.

17 MS. ROBINSON: I don't really want to debate the
18 Compost T thing here. I was just trying to address comments.

19 CHAIRPERSON CARTER: Okay. We've got a couple more
20 questions from the Board.

21 MR. RIDDLE: Yeah. Just to follow up on that
22 actually, Rick, you anticipated my question, because it was going
23 to be, as a certifier, what citation would you deny someone
24 certification based on. So that's it right there.

1 MR. MATHEWS: That's it.

2 MR. RIDDLE: The potential for contamination by
3 pathogens.

4 MR. O'RELL: That's correct.

5 MR. RIDDLE: Well, changing subjects --

6 CHAIRPERSON CARTER: I'm just saying I want the record
7 to reflect though that Jim Riddle and Rick Mathews were all
8 thinking alike here.

9 MR. RIDDLE: We often do.

10 MR. MATHEWS: That's one of our problems.

11 MR. RIDDLE: That might be stretching it a little,
12 Dave.

13 (Laughter.)

14 MR. RIDDLE: I'm sure it's stretching it a little,
15 Dave.

16 Yeah, this is the issue of certificates and there's
17 been the whole discussion of expiration dates. I'm not going to
18 get into that today.

19 CHAIRPERSON CARTER: Good.

20 (Laughter.)

21 MR. RIDDLE: That's a smart move. But the related
22 question is, the rule has the list of, you know, required
23 information on a certificate that's mandatory. I think a lot of
24 certifiers, you know, have had additional information on

1 certificates that is very helpful to the buyers, to the
2 producers.

3 I don't see where the rule says there can't be any
4 additional information, it's just it has to contain this. So is
5 there a problem if a certifier does have additional information?

6 MS. ROBINSON: It can't have an expiration date.

7 MR. MATHEWS: It depends on what the additional
8 information is. What is the additional information that you're
9 asking about?

10 MR. RIDDLE: Okay. The actual crops. I mean right
11 now it could just be you're certified for crops, and that would
12 meet the rule.

13 MR. MATHEWS: And you can list the identical -- you
14 can identify all crops, yes.

15 QUESTIONER 2: Partial locations?

16 MR. O'RELL: That's fine too. That's fine too. Put
17 anything on there that you want, but you do not -- we don't care
18 what you put on, okay, with one exception. With one exception.

19 There is nothing that can imply that the certification
20 ends at any given time. I know that's causing major gas for a
21 lot of people. The only thing I can recommend is Mylanta. Okay?

22 The bottom line is that we specify what has to be on a
23 certificate, which is minimal in order to get the program through
24 OMB. If you want to, as a burden upon yourself, to list what

1 parcels, what crops, whatever else, that is a business decision
2 that you are making.

3 The one thing that Jim promised not to talk about, but
4 I will, is the issue of a date that implies that at some point,
5 in a defined way, that certificate is no longer valid, and you
6 cannot do that. This certification is into perpetuity.

7 There's only two ways for that to end. One is for the
8 client to tell you in writing that they're surrendering that
9 certification. The other way is for you and the Department of
10 Agriculture to take it away for cause. Otherwise it continues.

11 They have an obligation to update their organic systems
12 plan on a yearly basis. If the update of that organic systems
13 plan necessitates amending that certificate, you are obligated to
14 update that certificate and reissue, but no dates in any form
15 that indicate that it expires.

16 CHAIRPERSON CARTER: Okay. Arthur had his hand up. I
17 want to call on Arthur Neal for some further explanation.

18 MR. NEAL: My name is Arthur Neal, National Organic
19 Program. Not necessarily further explanation on what Rick was
20 talking about. I've just got a comment regarding putting
21 additional information on the certificates.

22 Sometime certifying agents need to be kind of careful
23 on what type of information they put on the certificates,
24 especially when you're talking about specific products being

1 produced.

2 Because what we're saying is that clients are sending
3 in labels for ATF and FSIS, and the certificate that accompanies
4 the label lists our specific products.

5 However, that label for that product that they have, for the
6 label that's being reviewed by FSIS, is not listed on the
7 certificate, so the certificate for that particular product is
8 not valid.

9 Therefore, that label cannot be approved by FSIS and
10 it's usually sent back to the client or the certifying agent so
11 that they can update the certificate to reflect that that
12 particular product, that's being produced by that client, is
13 authorized.

14 MS. ROBINSON: Yeah, and remember that certifying
15 agents aren't certifying products, they're certifying operations.

16 MR. RIDDLE: Okay. One follow up on that.

17 A number of certifiers issue transaction certificates
18 or export authorization certificates that are specific to a load
19 of product that's being shipped.

20 It seems to me that those kind of certificates are beyond the
21 scope of this regulation.

22 What you're regulating is that master certificate that
23 can only have certain information, but in these kind of load
24 specific transaction certificates or export authorization

1 certificates are something different that the certifier -- it's a
2 business relationship between the certifier and the client that
3 they can provide that service, is that fair to say?

4 MR. MATHEWS: They can provide that service, yes. The
5 question is, what are you putting on that document?

6 MR. RIDDLE: Yeah. Well, typically it would be what
7 the product is, what the lot number, the date, the shipper, the
8 receiver.

9 MS. ROBINSON: The required information on the foreign
10 country that it's going to.

11 MR. MATHEWS: Yeah.

12 MR. RIDDLE: But it may be domestic, or it may be for
13 a foreign market, either one. It happens all the time.

14 MR. MATHEWS: That's okay.

15 CHAIRPERSON CARTER: Further from the Board?
16 Owusu.

17 MR. BANDELE: I don't want to keep on the Compost T
18 issue, I understand people don't want to keep debating it, but I
19 really think it's unfair to state that Compost T is equivalent to
20 raw manure

21 Secondly, I believe -- I understand in terms of erring
22 on the side of caution, but that should be based on science, and
23 as a member of the task force I never saw the scientific
24 documentation, nor have many, many people who have written in

1 asking to see the scientific documentation for that decision.

2 Those are just my comments.

3 My last question is, the Compost T Task Force, I mean
4 the big area of debate I thought was whether or not the
5 sweeteners were to be allowed in Compost T, not that Compost T
6 would not be used at all.

7 So I'm wondering how it got to a point from not
8 allowing the Compost, the sweetener in Compost T to not allowing
9 the Compost T's at all, recognizing -- I'm only bringing these
10 points up because I know a lot of organic growers have
11 historically used Compost T's without any major problems.

12 CHAIRPERSON CARTER: Okay.

13 MR. BANDELE: There's no answer to the question?

14 MS. ROBINSON: What's your question? What's the
15 science behind it?

16 MR. BANDELE: No, the question was, how did we get
17 from -- the Compost Task Force -- the big area of contention was
18 whether or not to use the sweeteners, not whether or not to use
19 the -- the Compost T's would be allowed.

20 So now we're saying that they're not allowed regardless
21 of how they're manufactured.

22 MS. ROBINSON: No. I mean think that's what we just
23 got through saying. We didn't say Compost T's aren't allowed.

24 VOICES: You did.

1 MS. ROBINSON: Treat the -- I know you don't want to
2 hear treat it like raw manure. I didn't say it was raw manure,
3 but treat it like raw manure. It has restrictions on the use of
4 ninety to 120 days.

5 CHAIRPERSON CARTER: Okay. And I know that there are
6 questions from the audience. I'm going to allow two questions
7 because we need to move on. There's -- Eric, you had your hand
8 up first and then Liana you had your hand up, and then we're
9 going to have to move on.

10 So maybe you can bring up some --

11 MR. KINBURG: On the one issue, Barbara, the
12 certificates, these are commonly called transfer certificates.
13 You know, you were starting to say something --

14 CHAIRPERSON CARTER: Can you come up? You need to be
15 on the record on this. I'm sorry.

16 MR. KINBURG: On the issue of certificates --

17 CHAIRPERSON CARTER: Eric, give your name first.

18 MR. KINBURG: Eric Kinburg, Organic Farmer.

19 Transfer certificates, you were speaking about them.
20 I'm saying they're used because somebody requests them on the
21 buying side. That's just perfectly -- that's not within the
22 coverage of the National Organic Program. I just want a
23 conclusion.

24 MR. MATHEWS: Correct. So it's neither mandatory,

1 necessary, or anything.

2 MR. KINBURG: Okay, I've got that.

3 On the Compost T, I take it everybody understands,
4 number one, that the words are misused. The T that you're
5 talking about, at least to some percentage of the time, is not
6 made from Composted materials, it's made from raw manure
7 materials, and that's what your concern is, my concern is,
8 period. Okay?

9 So then when you quoted this 205 section that covers
10 that. In other words, there's no way you're supposed to pollute
11 food in any way, shape, or form, right?

12 MS. ROBINSON: Right.

13 MR. KINBURG: So that's a done deal.

14 On the sugar added components, that's extraneous. It
15 doesn't have anything to do with it. If it doesn't have micro
16 organisms, it's not polluting, it's no problem. So doesn't that
17 answer your question?

18 I'm saying if you put the two together, then you run
19 into the problem of the most negative and not the most positive,
20 right?

21 So the only other thing that I don't understand about
22 the Compost thing, I just want to basically state it. In all my
23 years of dealing wit organic farmers, I have hardly ever run into
24 any organic farmer, that forely (ph.) or fed, and that's all

1 you're talking about, right, forely or fed, put it on leaves, raw
2 manure mixed in a slurry or made into a water filtered product.

3 So I don't know, you know, whether you're really
4 getting true information as this is really going on, but I've
5 never known anyone.

6 CHAIRPERSON CARTER: Okay. Then one other comment and
7 then we're going to move on.

8 MS. HOODES: Liana Hooded, National Campaign for
9 Sustainable Agriculture.

10 I'm having trouble figuring out the decision making
11 process of a Compost Task Force that is ruling on materials, when
12 what you put on the website is a final decision.

13 Is it a recommendation? Is it a guidance? And how
14 does that compare to decisions that are statutorily made about
15 materials by the NOSB?

16 And then also, whatever happened to the rest of the --
17 I mean how does that compare to the issue of what all the
18 recommendations of the NOSB in genera, not specific materials?

19 How does this Compost process, which has lots of
20 questions doesn't seem to have addressed some basic scientific
21 issues, how does it become so fast a recommendation that has to
22 be followed by the certifiers versus what the NOSB itself is
23 doing on materials?

24 MS. ROBINSON: Look, I think the only way to -- let's

1 go back to the very beginning.

2 When this issue was brought to my attention that, oh,
3 we've got all these problems, the way the Compost standard, the
4 way that section of the soil fertility practice standard is
5 written, is way too narrow, you're not, you've omitted, you've
6 ignored, you've forgotten all of these other kinds of substances,
7 materials, practices that producers use that are legitimate,
8 they're valid, they're good for the soil, da, da-da, da-da. What
9 are you going to do about it?

10 So we went, we sat down, we read this, and read this,
11 and read this, and decided that really the binding language was
12 this 205.203(c), which Rick just read, but I'm going to repeat.

13 "The producer must manage plant and animal materials
14 to maintain or improve soil organic matter content in a manner
15 that does not have...", and then it lists all the adverse
16 effects.

17 After reading that, I said wait a second. And then you
18 get down to the last part of that and it says animal and plant
19 materials include, colon. The word include legally was
20 interpreted to us to be include, but not limited to, except that
21 when we wrote but not limited to, we were told that's redundant,
22 take it out of there.

23 So when we looked at this, we said, well, wait, the
24 binding constraint is this what the producer must do, whatever he

1 puts on the ground, whatever he does. I don't care what you call
2 it, I don't care where you got it, I don't care what you made it
3 from.

4 Whatever you do, you cannot contaminate the crops, the
5 soil, the water, the plants. You cannot cause pathogenic
6 contamination. I mean that's the goal, folks. So I don't really
7 care what the substance was.

8 When it came to Compost -- and so that's what we said.
9 If you can go out -- we said this to the task force -- and do
10 the research and talk to folks and document practices that meet
11 that criteria, then those are soil amendments that you're
12 applying, and that's a legitimate practice.

13 And we'll post that as guidance for people out there so
14 they don't feel like, well, gee, just because I didn't, you know,
15 cook my stuff up to, you know 131 degrees fahrenheit and turn it
16 -- get out there and turn it, you know, over fifteen days, that
17 my vermiculture is no good.

18 We said, no, that's fine. Okay? Because the bottom
19 line is you must be true to the intent of this soil practice
20 standard. That's what you're doing.

21 When it came to Compost T, it was just too iffy. Okay?
22 I wasn't convinced, I couldn't convince anybody above me, so
23 that's where it wound up for now. Okay?

24 MS. HOODES: And that's a clarification? Is it a

1 clarification, is it a guidance? How --

2 MS. ROBINSON: Well, let me put it like this.

3 If you wanted me -- if you wanted this to be statutory,
4 if you want this to be like in this, it will happen in
5 approximately eighteen months. The way we did it is the way that
6 you can do it now.

7 Which would you rather have? I mean do you want me --
8 if you want us to go through this process, Liana, and wind up
9 with it in print like this, we would have had to wait eighteen
10 months, and I probably couldn't have gotten out of the Department
11 because they don't want to deal with Compost.

12 They do not want to discuss food safety. So it was,
13 well, what can we do that is still legitimate, that you know,
14 helps these folks out? I mean we really weren't trying to make
15 life more difficult. We were trying to make it easier here.

16 CHAIRPERSON CARTER: Okay. Kim, you have last comment
17 and then we're done with it.

18 MS. BURTON: I think, Barbara, what she was trying to
19 ask was where is the jurisdiction of the Board. We have task
20 force recommendations, we have guidance documents, we have
21 material review, and at what point is something taken seriously.
22 Okay?

23 So I think she was just wondering. I mean we have all
24 these recommendations that come from the Board and whether they

1 get acted upon, or posted on the website, or actually get on the
2 material national list, at what point does the NOSB have serious
3 jurisdiction over materials?

4 MR. MATHEWS: When we say so. I mean that's the best
5 answer I can give you.

6 MS. BURTON: That's what she needed to hear.

7 MR. MATHEWS: Once we have said that it's okay to go
8 with this, then that's the way it is.

9 CHAIRPERSON CARTER: Okay. All right. Anything else
10 on the NOP?

11 MR. MATHEWS: I'll just put mine away before we create
12 a need for more questions.

13 CHAIRPERSON CARTER: Well, that's okay. It's always
14 good and healthy. Do you have some other things, seriously,
15 Richard?

16 MR. MATHEWS: Just that the number of applicants for
17 accreditation is now up to 117. There's fifty-four that have
18 been accredited and there will probably be an additional two that
19 will come out, if not by Friday, then probably by mid next week.

20 It really kind of depends on when the letters get
21 signed. So it will be a couple of more coming out. The letters
22 have gone to the Administrator to sign. It's just a matter of
23 when they get back.

24 We'll fax those out, we'll post them on the website,

1 and we'll, at that point, be up to fifty-six accredited
2 certifying agents.

3 The other thing I wanted to mention, I hope it doesn't
4 get into a lot of dialogue, the issue on materials. We were able
5 to secure another \$100,000 for materials.

6 The avenue that we took to ensure that we were able to
7 commit the money before the end of the fiscal year was to take
8 the Virginia Tech and Cal Davis contracts and essentially redo
9 them for another twelve month period, with \$100,000 that we came
10 up with.

11 Rose.

12 MS. KOENIG: I guess I can understand that decision
13 prior to the finished product, okay? But now we've seen the
14 finished product and I can say, as a Board member, I'm not at all
15 happy with the finished product.

16 Is there a way to somehow change that, based on the
17 fact that some of the -- and this is my opinion. I mean we would
18 have to, of course, go through a democratic process, but I at
19 least would like to see that for discussion.

20 Some of those reviews were an absolute -- and I'm not
21 saying waste of time in terms of -- because some of them probably
22 shouldn't have been done, so that's not the problem of a review.

23

24 But as far as the quality and the content of the review

1 did not, at least help me in much of making the decision. So
2 it's really qual -- we're talking about workmanship, not what
3 they had to work on.

4 MR. MATHEWS: We have two issues here. The first
5 issue is this, that we needed an avenue to commit enough money,
6 or commit the \$100,000, which gets us twenty-five TAPs.

7 If I hadn't taken the route that we did, we wouldn't
8 have the money past September 30th. Okay? so what you're
9 guaranteed is the opportunity to have twenty-five TAP reviews
10 done by the two vendors that we have.

11 We need to seek additional funding for next year, but I
12 can't start working on Barbara to find where we can get the money
13 until next year. Okay? So let's say that I get lucky enough to
14 come up with another \$100,000 next year.

15 That then puts me in the position that over the next
16 twelve month period, I will have money to do fifty TAP reviews.
17 If we had not done the two contracts the way we did, and I had to
18 go through the same scenario of getting 100,000 next year, you
19 would have had money for twenty-five TAP reviews.

20 The bottom line is, you would have lost the opportunity
21 to have twenty-five TAP reviews done. Now, I understand that
22 there's concern about the quality of TAP reviews. That's not a
23 new experience for this Board. That has been -- I've
24 been on this program since April of '98 and I don't think there's

1 been a meeting yet that I've attended where somebody didn't
2 complain about the quality of the TAP reviews.

3 In defense of all contractors, I'll repeat what I said
4 earlier today. By contract, they have approximately 260 days to
5 get their job done. We have never allowed any contractor to take
6 their full allotted time. We always rush, we always rush the
7 contractor to get the job done early.

8 That is exactly what we have done with the thirty-two
9 materials that we're coming before this Board this week. We've
10 rushed all the contractors to get the job done.

11 Now, is the quality of the TAP this time because,
12 number one, they knew and are still learning the system? Two,
13 that they're just sloppy, terrible contractors? Or is it that
14 they're rushing?

15 It fits into one of those three, but which one is it?
16 So bottom line from my standpoint, I'd rather have \$100,000 so
17 that I could get twenty-five TAPs done and work with the
18 contractor to get it to the point where they provide me a quality
19 TAP, than to not have the twenty-five TAPs that I can get done.

20 MS. BURTON: Right. So I --

21 CHAIRPERSON CARTER: If I could just -- no, I'd like
22 to just ask a question, because the issue on there, and I know
23 the issue of quality of TAPs has come up periodically, but you
24 know, there are some specific and very evident weaknesses in some

1 of the TAPs that we've had, and I think we need to look at that.

2 The question I have though is, we really have three
3 contractors out there, and you've talked about the two. The
4 \$100,000 that you have, the use it or lose it, is that just then
5 applicable to those two contractors, or does that bring all
6 three?

7 MR. MATHEWS: No, it's applicable to Virginia Tech and
8 to Cal Davis.

9 CHAIRPERSON CARTER: Okay. So OMRI is not part of
10 that \$100,000?

11 MR. MATHEWS: No. Virginia Tech, Cal Davis and OMRI's
12 current contracts all expire on the 30th of this month, and they
13 have all used all of the funds available. We had another
14 \$100,000 and that has been split between Cal Davis and Virginia
15 Tech.

16 MS. KOENIG: Why not all three again?

17 MR. MATHEWS: Because that's because the way the
18 contracting office did it. And it was done that way because in
19 reality the most recent contractors were Virginia Tech and Cal
20 Davis. The OMRI contract was an extension of a previous contract
21 that was let two years ago.

22 So the contracts that went out last year have
23 essentially been redone, and that enabled us to get it done in
24 time to have the money obligated so that we would have it in this

1 fiscal year, which ends --

2 MS. ROBINSON: October 1 starts a whole new cycle.

3 CHAIRPERSON CARTER: Okay. Kim and then Rose.

4 MS. BURTON: Some comments that I had jotted down for
5 when I go over material review, but I'm just going to go through
6 now since we're talking about this topic.

7 This Board is a new Board, and most of us have only
8 been on a few years, if any. We certainly have people in our
9 audience who are much more familiar with the TAP process than we
10 are here.

11 The TAPs that we have seen have been very good TAPs.
12 Granted, we've rejected some. They've been very thorough. If we
13 rejected them, they were for minor details. They got them fixed,
14 we got them back.

15 When we had the new contracts go out, and we got three
16 contractors and two new ones, we knew that there would be
17 problems. We tried to circumvent that. We came up with an
18 educational document, very thick. We went through conference
19 calls.

20 We educated, to the best of our knowledge, but in my
21 opinion, quite frankly, it's not something you can train somebody
22 in, in three months, and we're seeing the results of that.

23 My other advice is reject the TAPs if you're not happy
24 with them. You know, we've done that. We have a historical

1 practice of that. We're feeling pressure here to vote on
2 materials, and that's what we're feeling. So do I feel that the
3 contractors can do a good job in the long run?

4 Yeah. It took OMRI ten, fifteen years to get where
5 they're at. So that's my advice. I don't think -- well, I don't
6 think that rejecting the \$100,000 is what we want to do either.
7 I'm not happy with it. You know, I don't think it's the right
8 thing.

9 Is it our only decision? Yes. So that's what I'm
10 saying. My advice, reject them, send them back, let's get some
11 advice, let's figure out what we need and what we want out of
12 them and vote on them in October, if possible.

13 CHAIRPERSON CARTER: Okay. Rose.

14 MS. KOENIG: So say, you know, to vote my conscience
15 on some of them, you know, we're up against, like you said, a
16 time frame. I mean there's a lot of them that I think should be
17 sent back, personally, they were incomplete. There wasn't enough
18 information as far as making a decision.

19 However, you know, we do have this deadline and
20 additionally, now you're saying, okay, send all eighteen or let's
21 not be so extreme. Okay, send half of them back, fifty percent
22 of them back, and then add more to the same contractor's list of
23 things.

24 So in practicality, I don't see where it's going to

1 solve it unless they have a dedicated full-time staff person that
2 they have put on to do this job. So I mean maybe we need to work
3 with the contractors. I'm not suggesting that, but --

4 The other question I had, which may be a better fix to
5 the solution, is there anything against the contractors that we
6 award the money to from subcontracting to somebody else?

7 Because I understand the constraints of your budgetary
8 system, but I always like to figure out how to reach our goal,
9 which is a better TAP, within those constraints. So can Virginia
10 then contract to OMRI, their own contract, to do a TAP review?

11 And then, as long as that product comes back to us
12 through them, if --

13 CHAIRPERSON CARTER: Okay.

14 MR. MATHEWS: I'd have to look at the contract to see
15 that. I can look into that. But I think in fairness, maybe
16 Emily would like to address the Executive Committee for OMRI from
17 last August on what their decisions were on TAPs.

18 MS. SONNABEND: What our decisions were on TAPs?

19 MR. MATHEWS: Yeah.

20 MS. KOENIG: I think what he's talking about was the
21 long-term vision of OMRI.

22 CHAIRPERSON CARTER: And just while Zea's coming to
23 the microphone, just as a point of information too, we are having
24 lunch, the Board is having lunch with the folks from Virginia

1 Tech on Thursday to discuss -- or excuse me -- Wednesday, to
2 discuss these issues.

3 So it's something to try and get some resolution within
4 the current framework that is ongoing.

5 Zea.

6 MS. SONNABEND: I am on the OMRI Board, and we had a
7 Board meeting --

8 CHAIRPERSON CARTER: Zea Sonnabend, by the way.

9 MS. SONNABEND: Yes, Zea Sonnabend, OMRI Board right
10 now.

11 We did have a retreat in August. It is the desire of
12 our Board to phase out of doing TAP reviews on the long term.
13 However, we did acknowledge a need of the -- in light of the
14 pressing need for them, at the moment we were willing to keep on
15 doing, you know, another round of them.

16 But we don't want to be forever the long term
17 contractor, especially in light of it looked like that we would
18 have eight to ten more reviews coming up in this next year. And
19 our Board did indicate a willingness to keep doing those,
20 although not long-term.

21 And since --

22 MR. MATHEWS: Define another round.

23 MS. SONNABEND: Well, at the time -- the information
24 that we had at our August retreat was that \$100,000 might become

1 available and it would be divided three ways, which would be
2 approximately a third of twenty-five reviews. That's what we
3 thought we were looking at.

4 And, you know, we didn't define it any more
5 specifically than that. I mean we didn't say we can do eight
6 this year, ten this year, but just, you know, in the next year we
7 figured that we would likely be doing some.

8 And since I have the mike, could you please tell us
9 about the previous NOSB decisions that aren't published yet?

10 (Laughter.)

11 MS. ROBINSON: It's on my list.

12 CHAIRPERSON CARTER: It was on the list any way.

13 MR. MATHEWS: They're in a draft document that is
14 under review. That's the best I can tell you right now.

15 MS. SONNABEND: Are you hoping for October 21st?

16 MR. MATHEWS: We're hoping to have some kind of an
17 official posting on the website with regard to materials that
18 have been approved by the Board between the -- actually, it goes
19 all the way back to between the time that the proposed rule was
20 published the second time in March of 2000, and where we are
21 today.

22 Actually, we really want to cover all the way through
23 the October meeting as well.

24 CHAIRPERSON CARTER: Jim?

1 MR. RIDDLE: Yes. So that would be a policy
2 announcement and not a Federal Register notice, interim final
3 rule, is that correct? Most likely?

4 MR. MATHEWS: Well, I can't promise. You know, I
5 can't promise whether it would be a policy statement, or whether
6 it would be the interim final rule, but we will try to find out.

7 MR. RIDDLE: It could be a policy statement, if it's
8 up to you, but it's up to others to get it to the status. And
9 you can't --

10 MR. MATHEWS: Well, it's up to many people whether or
11 not it gets published in the Federal Register. I mean it's --

12

13 MS. ROBINSON: It has to be published in the Federal
14 Register because by statute and by regulation -- sorry -- by
15 statute and by regulation we have to go through the public
16 comment.

17 We went to the lawyers and actually said, look, if only
18 the Board can put stuff on the list, and it has to be -- the
19 Secretary has no authority to put stuff on the list, why do we --
20 I tried this argument -- why do we have to do rulemaking, why
21 don't we just publish the list on the website, and here's what
22 the Board recommended.

23 And the answer came back, because it says clearly in
24 the law that you'll go through the public comment period. So I

1 did try to find out if electronic substituted well enough for
2 public comment period, and they said no, not yet. So that's why
3 we have -- it does have to do that.

4 Now, the only concession that we got from the lawyers
5 this time, Jim, was that this time, because we're so close to
6 implementation, that rather than doing it as, you know, here's a
7 proposed rule by the Board for materials, that we could just go
8 interim final, which means the day it hits the Register, it's
9 effective.

10 People can still comment, and the Department could
11 change, you know, depending on the comments that you got, but
12 that is very rare for that to happen.

13 Interim final means it's as good as being final. So
14 they said, okay, we'll give you that this time.

15 MR. RIDDLE: Okay. Just to be clear though, if that
16 doesn't happen by October 21st, you still could post, or intend
17 to post a policy which would provide guidance to producers,
18 processors, and certifiers, that these things that the NOSB has
19 recommended are going to be allowed.

20 I mean is that where we stand?

21 MS. ROBINSON: That's our intention, yes, yes.

22 MR. RIDDLE: Okay.

23 MS. ROBINSON: And that will always be our intention,
24 to let people know as soon as the Board votes on materials to get

1 that posted, so that people can start acting on those decisions.

2 Yes.

3 CHAIRPERSON CARTER: Okay. Anything else, Richard,
4 beyond that?

5 MR. MATHEWS: Well --

6 MR. RIDDLE: Oh, yes. Well, just related to that,
7 that's the technical corrections, I know. Is it kind of in the
8 same -- you know, it needs to go to Federal Register, also.

9 Would it be posted as a policy, some of those technical
10 corrections to the rule itself?

11 MR. MATHEWS: It's amongst the multitude of issues
12 that -- and I'm going to sound like a broken record, but I
13 welcome anyone to come to the hallway in front of our office, and
14 look at the directory of personnel.

15 And then ask yourself, can you believe the amount of
16 work that that staff has accomplished.

17 MS. ROBINSON: Nobody cares, Richard.

18 MR. MATHEWS: I know they don't.

19 (Laughter.)

20 MR. MATHEWS: But the point I'm trying to make is that
21 it's a Herculean effort and we are busting our backs every day to
22 try and get it done. I know that it doesn't get everything done
23 as fast as everybody wants, but please understand, it is on our
24 to do list, and we will get to it as quickly as we can.

1 MS. ROBINSON: I'll tell you what. If we can't get
2 technical corrections posted to the Register by October 20th,
3 we'll scan the document and put it up on the website so you know
4 what we're going to pub in the Federal Register, okay?

5 CHAIRPERSON CARTER: Okay. That's helpful and I think
6 that's a good note to end the NOP update here. And just, Rick,
7 in response to your comment, I mean I think everybody in this
8 room recognizes that there is just a -- you know, this program is
9 being created from scratch.

10 We're doing something new here and, you know, the best
11 that we can do is try and provide, on a lot of these things,
12 guidances to what are the top priorities and what needs to be
13 done.

14 You know, and so everybody is geared in that direction.
15 I just --

16 MR. MATHEWS: My only comment to that is that EPA's
17 take on it is that their issue with us is top priority. FSIS'
18 issues with us are their top priority. ATF, we're their top
19 priority.

20 The mushroom industry would like us to be their
21 priority. QAI, with questions, wants us to be their priority.
22 Everybody is in the position of saying that they are the priority
23 and the NOP is the one that really has to set the priorities.

24 CHAIRPERSON CARTER: And that's fairly easily resolved

1 because you can just tell them that the recommendations from the
2 NOSB is our top priority, so --

3 (Laughter.)

4 CHAIRPERSON CARTER: Okay. Rose, one final comment.

5 MS. KOENIG: I just had one question, one final
6 question.

7 Have the contracts been signed, and have the -- I mean
8 what happens if the contractors get ten of these things back and
9 decide that this is just not where they want to go, that they
10 don't want this additional money? I mean is it a done deal?

11 MR. MATHEWS: The money goes back to the U.S.
12 Treasury.

13 MS. KOENIG: Okay.

14 CHAIRPERSON CARTER: All right. I'm going to close
15 off the NOP presentation, except to acknowledge that as we began
16 this, I introduced some of the folks from NOP and since then Bob
17 Pooler has joined, so I want to recognize Bob from the NOP, and
18 one of the folks that's working against the October 21st deadline
19 is here, and thank him for his work.

20 MS. BURTON: Aren't we going to do Livestock?

21 CHAIRPERSON CARTER: Now, let's move o to our
22 materials discussion. Or excuse me, I'm sorry. I was trying to
23 skip over that, George.

24 MR. SIEMON: I don't mind doing it now, but you know

1 it might be that people are more interested in the materials and
2 the livestock might be the second thing today. I don't really
3 care.

4 CHAIRPERSON CARTER: Yeah, let's follow the agenda,
5 George. So let's go on to the --

6 MR. SIEMON: Okay. Am I on?

7 CHAIRPERSON CARTER: You're on.

8 MR. SIEMON: Yeah, this is a really hard subject. I
9 don't know why I get all the fun ones, but basically, dairy herd
10 replacement is about the animals that are growing up to replace
11 the milk cow, and that can be from basically inside the herd, the
12 animals that are raised from the original organic mothers, or
13 from the outside.

14 So this is a question we're trying to deal with. And
15 the issue we have here is that the rule and the preamble disagree
16 with each other, and it depends on how you read it. But clearly,
17 there's confusion over what the rule says, and what the preamble
18 says. And actually, I mean statements that simply disagree with
19 each other.

20 And in trying to deal with this through the Committee,
21 we've truly tried to work with Rick and some of his
22 interpretations. So, Rick, if I misrepresent you, please speak
23 up. Well, Rick left. Well, then I really will misrepresent him
24 then.

1 (Laughter.)

2 MS. ROBINSON: Yeah, this is your opportunity.

3 MR. SIEMON: No, no, no. Because, you know, this is a
4 guidance issue, this is not a rule change. We want to try with
5 what the lawyers have said, and try to work within some
6 boundaries there.

7 So actually, their interpretation of the rule defines
8 two classes, farms that come into the program -- in order to
9 become organic dairy herd, there's two ways you can become it.

10 One is you've converted your land. There's a clause
11 for that. Two, that you just, out of the blue, buy some
12 certified heifers and you qualify. Two different ways to come
13 in.

14 And Rick's interpretation in the rule that clearly says
15 it is then therefore, from then on, there's two different rules
16 for replacement. And overall, the industry doesn't agree, is
17 that we like to see a unified sense, as much as possible, and
18 that's hard, as we heard earlier about the medications, that's
19 one of the things we haven't solved.

20 So there's actually two classes. I'll go through what
21 we've done here, but I'm just trying to get a little overview
22 here. And there's also two different rules on medications, if
23 you read the law the way it is, and that's what we've heard here.

24

1 The law says no antibiotics allowed, and yet we're
2 going to allow herds to come in that have had possibly
3 antibiotics in their lifetime. That goes against that clause
4 itself.

5 And the way the law reads now, you can bring
6 replacements, ones that possibly had antibiotics when they were
7 young, yet those on the farm can't have it. So you kind of have
8 two, at least two situations where you have two different classes
9 or standards for two different groups.

10 And it would really be good if we could unify it all
11 the way through, and that's kind of what we tried to do in our
12 recommendation.

13 There's other solutions, we had some, but they were
14 rule changes according to what we were given guidance for, and we
15 were told not to do any rule changes.

16 So what we've done -- and I don't -- I'm real confused
17 yet what's a rule change and what's not sometimes. I think
18 there's some of the things we could interpret, but still we try
19 to work within the boundaries we were given.

20 The Livestock Committee has not discussed the issue
21 about delaying this question this time. And I guess that's
22 something we need to sit down and talk about and see. When was
23 it posted? August something?

24 CHAIRPERSON CARTER: August 15th.

1 MR. SIEMON: You know, we sent it out to July 11th.
2 Remember, there was some time warp there. The sixty days is
3 really just a guide or a desire, you know, I think.

4 I don't know if it's any hard, fast rule, but it has
5 only been thirty days and so I guess maybe the Livestock
6 Committee needs to sit and talk if they really want to delay this
7 or not to the next meeting. We've only got a two-day meeting
8 next time.

9 And the same people that are asking us to maybe delay
10 are the same ones that are hammering us to get it clarity so we
11 can make some decisions. So delaying it to October might very
12 well be a delay longer than October. And I, personally, hope we
13 don't do that.

14 So like I say, it's really tough because the rule
15 itself has some confusion. So I guess with that, I'll try to
16 just go through what we've written. It's in your book under Tab
17 3, I think, isn't it? Or is it -- no, 4.

18 CHAIRPERSON CARTER: And what I would recommend,
19 George, is let's go through this, what we've written. I think
20 one of the issues that has come up is even though there doesn't
21 seem to be any difference in intent, in what we as -- and I put
22 myself in that as part of the Livestock Committee have come
23 forward with, and what the testimony of what that intent is, but
24 we certainly haven't hit the mark as far as clarifying --

1 MR. SIEMON: No.

2 CHAIRPERSON CARTER: -- the understanding of that.

3 And so then we need to talk about what to do to clarify that.

4 MR. SIEMON: And I'm not sure our intent is the same
5 too, because again, it depends on how you read the rule and OFPA
6 itself. And it's a confusing issue. In part, it's also because
7 we made some of these decisions over the last ten years in
8 piecemeal.

9 And one of them is, is that livestock, once they enter
10 a farm, should be treated organically from then forward.

11 That's a root here that really the law doesn't even say
12 clearly for dairy. And so it starts getting very confusing.
13 Yet the preamble clearly says that. And so there's a lot of
14 confusion on this issue.

15 But I'll just try to go over through Issue Number 1 and
16 see if we can -- the italics is what's exactly in the rule, so
17 you'll see right away, A is the master clause for all livestock
18 origin.

19 And yet in 2, there's an exception given to that
20 master, that reflects OFPA is the one year prior is what counts.
21 Part of our reading here is that once they enter a farm, they've
22 got to be treated organically. That's a bottom foundation here
23 that really is not said anywhere in the rule that we're keeping
24 true to in this dairy.

1 So, the two points we wanted to clarify, there's
2 actually three, is that the one year relates to if you're
3 converting a herd independent of the land, that it has to be one
4 full year of 100 percent organic qualification and that the --
5 what do they call it -- the entire distinct
6 -- what's the official word for it? The conversion model does
7 not apply to you. So, if you have the herd of cattle that's not
8 been part of a conversion of the land, which includes three or
9 four years prior of no -- nothing but organic production, that
10 you have to qualify for one full year, 100 percent qualification.
11 Okay. That's the Number 1 thing that we think that Number 2 is
12 representing.

13 And then, Number -- the second one is that no matter
14 how you got into organic dairy, because again there's two ways to
15 get in, that with the land converting and that with the land not,
16 and no matter how you get in, the minimum standard is all your
17 replacement or expansion animals must qualify for one year
18 minimum. So, those are the two places where we were trying to
19 clarify Number 2.

20 How would you like to do this? Would you like to ask
21 questions on each issue? I think that'd be the best way to go.

22 CHAIRMAN CARTER: Yes, sure.

23 MR. SIEMON: And then, we just tried to search through
24 the -- where the history of NOSB to put in anything that seemed

1 relevant to this discussion about the 12 month prior, and then
2 you can see, for example, on the next page where it says '98 --
3 well, it says '98 and '94, that they once they're brought on to
4 the farm, they must be organically treated but no less than 12
5 months.

6 So, let's go back to this -- what is the 12 months
7 about? It's about herds that are not part of the land conversion
8 and it's the minimum standard for replacement or expansion
9 animals, and then I had underneath there our interpretation that
10 once any livestock is brought on to a farm, it must be treated
11 organic from that point forward.

12 Any questions on that?

13 CHAIRMAN CARTER: Issue Number 1. Any questions?

14 (No response)

15 MR. SIEMON: Okay.

16 CHAIRMAN CARTER: Okay. Proceed.

17 MR. SIEMON: Number 2 is the conversion of entire
18 distinct herds, and some of these interpretations, we're just
19 trying to make it real -- we're trying to make it clear, but I
20 don't know if I can clarify a clarification really. That might
21 stump me. But some people are actually trying to read this, that
22 all herds could be converted under this clause. Well, if you
23 read the preamble, it's very, very clear that this is all about
24 farms that are converted the land and the herd together for

1 three-four years, basically, from the start to the point of
2 selling organic milk, that they've all gone through this
3 together, and so, but I was hearing from the Department and other
4 people, no, the rule doesn't say that. So, anybody can do it
5 this way. This is not "a reward" for having gone through your
6 land conversion. This is the minimum standard, and if you read
7 the preamble, there's no question that this is, I'll just use the
8 word, reward for having taken the herd through this three or four
9 years of organic production on the -- organic techniques on the
10 land.

11 So, it says here the interpretation. It's only
12 applicable to dairy herds which are a part of a conversion to an
13 organic production system when it comes to land, crops, and
14 livestock, wherein dairy animals are converted simultaneously
15 with the land, and the preamble says in several different places
16 where it supports that.

17 So, any questions on Number 2?

18 (No response)

19 MR. SIEMON: We're doing good.

20 CHAIRMAN CARTER: What's the reward?

21 MR. SIEMON: The whole new herd clause where you don't
22 have to go the whole one year. You go the nine months and then
23 three months. The whole entire -- they call it conversion of
24 entire distinct herds.

1 CHAIRMAN CARTER: Still a year? The reward is what?

2 MR. SIEMON: Reward is not the right word maybe.

3 Sorry. I'm trying to make sense of it.

4 CHAIRMAN CARTER: I'm just trying to make sense, too.

5 MR. SIEMON: What's the question?

6 CHAIRMAN CARTER: You're saying -- basically, you're
7 saying for a whole herd conversion, obviously you don't have to
8 wait three years on the land, but the herd -- well, you still
9 have to wait a year.

10 MR. SIEMON: But instead of the year, 12 months, of 100
11 percent qualification, it has some variations.

12 MR. RIDDLE: It's a recognition of a systems approach.

13 MR. SIEMON: I'll take that for reward, yes. Okay.

14 Any questions on Issue Number 2?

15 (No response)

16 MR. SIEMON: Now, the crux of the question comes with
17 Number 3. If you read the rule the way it's written, Number 3
18 deals with 3-I, which is under the exception of the exception,
19 okay, and this then would only address the way the rule is
20 written, those herds that have been converted through the land
21 conversion. So, it says that they must be under organic
22 management from one-third. By reading the rule, that means the
23 other herds that came in a different way don't have to live by
24 that one-third. Thus, some of the confusion, if you start trying

1 to throw them in a preamble, you really can get confused.

2 There's the two classes. If you came in through the
3 conversion, you got one replacement cost. If you came in through
4 the one year, you got a different replacement cost on-going, and
5 you notice Rick's nodding his head. Rick, I said earlier, I
6 wasn't trying to represent some of your views. This is Rick's
7 view, and overall, I don't think most of the community realizes
8 that's how NOSB is seeing this, that then you're going to have --
9 because you were given this recognition, you now have for the
10 rest of your career have to live with the different standard than
11 those who came a different way. They forever also can buy cattle
12 that just are organic for one year versus you have to do it from
13 last three-four and not to mention with medication.

14 So, it's a permanent exception, it's a permanent thing.
15 Well, we didn't agree with that. So, our interpretation, as we
16 turn over, and this doesn't fit well with the rule, but this is
17 where we differed from what the rule said. Interpret this to
18 mean that in all organic dairy herds, once certified organic, any
19 animal born from the herd, and this should say dairy replacement
20 animal, must be raised in compliance with organic standards, and
21 we thought this was consistent with the clause that says you
22 cannot move animals in or out of organic.

23 We feel that applies to both -- all organic dairy
24 herds, no matter how they entered the system as compared to the

1 rule now that says the last third is only for those that entered
2 the system through the conversion, and I might -- you know,
3 that's where there's -- I'm not going to go into all the preamble
4 confusion. You guys can try to read through it, if you want to.
5 There's so many contradictories here.

6 I agree with Rick, though. If you read the rule as a
7 strict reading, his interpretation is what the rule says now.
8 Two different replacement standards and that's what we're trying
9 to say. No, we want to have one different replacement standard.
10 So, the gist of all this is, is that, there's two ways to enter.
11 Once you enter, your replacement animals shall be treated
12 organically from the last third forward, and both systems could
13 buy animals from the outside, if their home-raised heifers
14 weren't adequate, to supplement or expand in the one-year minimum
15 standard. That's the nutshell of what we're trying to say. It
16 doesn't say it very well. We did not take care of the medication
17 inequality. There's several ways we can try to do that, but you
18 have to either interpret the rule differently than we're being
19 told to interpret it or you have to have a rule change in order
20 to address those medication issues. So, there's still -- what
21 we're recommending still has this inequality that has been talked
22 about here today. We need to recognize that.

23 Number 3. I didn't ask. Is there questions on Number
24 3?

1 CHAIRMAN CARTER: Questions from the group?

2 MS. COOPER: Just a comment, though. I would like to
3 see what OTA comes back with with some language on this section
4 particularly. It seems to be the most contentious one and a lot
5 of public comment, also.

6 CHAIRMAN CARTER: Rose, and then Mark.

7 MS. KOENIG: Again, I just want to state that the third
8 avenue is improving materials for that stage.

9 MR. SIEMON: Or reading the antibiotic standard
10 differently. There is -- as far as the deal with the drug issue,
11 that is almost another issue we should deal with, a separate one.
12 This one is irregardless of the drugs. This is about both
13 having the same replacement clauses.

14 CHAIRMAN CARTER: Okay. Mike?

15 MR. LACY: Just a point of clarification. Really it's
16 a question. George, when you're referring to the two different
17 standards and as it relates to Issue 3, you're talking about that
18 if it's raised on the farm, it must be managed organically from
19 the last third of gestation versus if I buy it off the farm, it's
20 12 months.

21 MR. SIEMON: Forever, forever, not just to get in, but
22 what I'm being told is interpretations. Once -- let's just take
23 an example. I go by the farm that's certified -- that has land.
24 I go out and find heifers that qualify. They qualify for the

1 one year. I bring them over here and put them on the land for
2 one year. I can now forever buy heifers that are just one year,
3 but this person over here stopped using sprays, went through the
4 four years, uses the conversion clause. They have to do the last
5 third forever.

6 MR. LACY: When you say forever, are you talking about
7 the management of the entire herd?

8 MR. SIEMON: I'm talking about the replacement stocks.

9 MR. LACY: In other words, --

10 MR. SIEMON: Rick, help me out. This is your
11 interpretation you've given me. I'm not necessarily agreeing
12 with it. This is what -- this is the umbrella I'm working under.

13 CHAIRMAN CARTER: Okay. Rick?

14 MR. MATHEWS: The Act provides that you can bring on
15 any animal at any age in any number at any time. The regulation
16 picks that provision up. So, what you've got is a requirement
17 that the animal be organic from the last third of gestation or
18 hatching, and then there's two exceptions to that provision which
19 occur both in the regulations and in the Act. One of them is in
20 the case of poultry for the hatching. The other one is in the
21 case of dairy animals.

22 Now, what came about in the final rule was that they
23 made that provision which means any animal, any age, any number,
24 any source, as long as you put them through a 12 month period of

1 raising them or of managing them organically for one year. So,
2 the day you bring them on, you start your organic management.
3 365 days later, they are converted to being an organic animal.
4 They can product organic milk. They cannot produce organic meat
5 later on. If they were to -- if you wanted to slaughter it after
6 it had outlived its usefulness, it would have to go to the
7 conventional market.

8 People wanted a whole herd conversion for the purpose
9 of providing food at a less than 100 percent level. That farm
10 still has to go through the three year conversion process. The
11 herd for one year goes through a conversion that allows 80
12 percent organic or, in reality, transitional feed, whether that
13 be from pasture or wherever. I think it's mainly, and correct me
14 if I'm wrong, Arthur, but I think it's essentially the grass,
15 that you're converting your farm and you can still have it
16 feeding in the pasture. Even though that hasn't qualified as
17 organic pasture yet, the cow can still eat it and it counts in
18 that 80 percent.

19 Then you've got 20 percent of non-organic feed but
20 that's for a nine month period. Once you hit that nine months or
21 complete that nine months, then it goes to 100 percent organic
22 feed for the remaining three months. What George is trying to
23 explain is that in this exception to the exception, there is
24 (iii) which says that if you took advantage of the exception to

1 the exception, all your animals have to be from last third of
2 gestation from thereon. That is, it's a burden that is placed on
3 the farmer who does the whole herd conversion.

4 Let me try and explain it one more time. Last third of
5 the gestation, except in dairy animals, which will get a one year
6 period, any age, whatever, except if you want to do a whole herd,
7 then you have a different feed schedule. All right. But if you
8 take advantage of the different feed schedule, you then can no
9 longer bring on that heifer from any source and any number at any
10 age. You lose that provision which occurs earlier on in the
11 regulation.

12 That hasn't confused you?

13 CHAIRMAN CARTER: No. That's real clear.

14 MR. RIDDLE: And I guess my question is back to Rick.
15 With the recommendation, there's obviously two interpretations of
16 the rule. There's probably more if you talk to more people. But
17 given that we have two and one of them is clearly the position of
18 the NOP in the way the regulation is written, if the NOSB
19 Livestock Committee recommends something that's contrary to that
20 interpretation, it doesn't change the rule. So, how is this
21 effected without a rule change, and how would it be enforced by
22 the NOP?

23 MR. MATHEWS: If the Board comes up with a
24 recommendation, we can take it to the attorneys to ask for the

1 legal opinion as to whether or not the regulation could be
2 interpreted the way the Board would like to see it interpreted.
3 If they say that that would be a legally sufficient
4 interpretation, then we could come out with a policy decision
5 that says this is the way we're interpreting it.

6 If they came back and said no, that doesn't hold up as
7 a legally sufficient description of what's really happening, then
8 we would have to go through rulemaking, and the thing that I
9 would say is that the Board needs to identify what is the
10 problem, who the problems for, you know, what are all our
11 different options, same kind of thing I was talking about in
12 Austin.

13 There's multiple problems here. There's the disparity
14 because of the way the wording is that puts a tougher burden on
15 the farmer that's doing the whole herd by saying that you can't
16 bring in replacement animals that are not from the last third of
17 gestation. There's also the tougher burden on the farmer who is
18 raising their animal from the last third of gestation because
19 they're managing the animal organically for 24 months
20 approximately versus somebody who is managing it organically for
21 12 months.

22 As Dr. Karreman has pointed out, medications are a part
23 of the issue. The -- my interpretation on this is that if a lot
24 of these materials that you're looking at now, you had decided

1 that they were appropriate for the animal, then my interpretation
2 is, based on Dr. Karreman's testimony, is that, those same
3 materials could be used on calves. So, whether it's an adult
4 animal or a calf, if you've got medications on there, that takes
5 away some of the problem that was there for the farmer who could
6 not treat their animal with any kind of synthetic.

7 I think the bigger picture that people are not zeroing
8 in on is really what was discussed earlier about the pneumonia in
9 the calf or any other kind of disease or illness that would
10 require the use of an antibiotic. The regulations provide that
11 an organic farmer cannot use an antibiotic in the organic system.
12 An animal can have been treated with an antibiotic in its youth
13 and brought on to the farm and that's okay, as long as they go
14 through that 12 month conversion. An animal cannot be treated
15 during the first three, six, nine, 12 months of its life on the
16 farm with an antibiotic and still go through the remaining
17 transition period because there is a prohibition on the use of
18 antibiotics. So, that's part of the problem.

19 CHAIRMAN CARTER: On the farm.

20 MR. MATHEWS: On the farm.

21 CHAIRMAN CARTER: We've got to limit just comments from
22 the audience here.

23 MR. SIEMON: So, can I just ask a question. The way
24 you're interpreting it, the farms that don't use the conversion

1 clause, they'll be able to raise their young stock they want up
2 until 12 months prior on their farms?

3 MR. MATHEWS: No.

4 MR. SIEMON: Then tell me.

5 MR. MATHEWS: The organic farmer has to raise the
6 organic animal organically. You cannot have an -- let's take the
7 scenario of a 100 percent organic farm. You get a 100 percent
8 organic dairy farm. You are raising -- well, the mother is being
9 managed organically. The calf is managed organically for the
10 entire period of its entire life while it's on that farm.

11 MR. SIEMON: So, basically, like our interpretation,
12 even though it may not belong in 3-I, what we say the
13 interpretation that you're agreeing with is that all the farms
14 have to treat them from the last third to -- the calves on those
15 farms? All of them? There's no difference between those two
16 types of farms. They're all the same. The last third forward.

17 MR. MATHEWS: If it is a calf coming from an organic
18 mother, and it's going to remain on the organic farm, it has to
19 be managed organically.

20 MR. SIEMON: And what about them -- those that can do
21 this the way you're interpreting it to 12 months. They can't
22 sell their heifers and then buy back all their heifers. They
23 would have to raise those heifers organically and not sell them
24 and then buy back heifers that only did the one year.

1 MR. MATHEWS: There's nothing to stop a farmer from
2 selling a cow or a heifer or a calf. They can sell any animal
3 they want.

4 MR. SIEMON: So, they could sell all their heifers and
5 buy back heifers that are only qualified for the 12 months the
6 way you're interpreting this right now?

7 MR. MATHEWS: Well, why would they want to sell their
8 heifers?

9 CHAIRMAN CARTER: So they can treat them. We're
10 hearing economic advantage and this kind of issue. I mean,
11 usually obviously they don't want to. A lot of people don't
12 raise any heifers.

13 MR. MATHEWS: The farmer can sell their animal. There
14 is no prohibition on the farmer selling their animals.

15 MR. SIEMON: So, you don't see that as a conflict of
16 going -- moving in and out of organic?

17 MR. MATHEWS: Well, the animal, once it leaves the
18 organic farm, if it goes to another organic farm, it maintains
19 its organic status, but if the animal has been managed
20 organically and leaves the organic farm and does not go to
21 another organic farm, it loses its organic status for the rest of
22 its life.

23 CHAIRMAN CARTER: But I think, if I might, the issue
24 here, it's not so much a prohibition on, you know, whether or not

1 you can sell, it's the fact that the way that it is created here
2 is creating an incentive for people then to get rid of their -- I
3 mean, to really bring on heifers from the outside which is sort
4 of a basic contradiction to the organic philosophy of being a
5 sustainable self-contained thing.

6 Here, we're creating an incentive to bring on because
7 you've got that one year or less, you know, restrictive
8 provisions.

9 MS. KOENIG: I mean, I guess it's just beating
10 something to death, but what I could envision as a farmer, I
11 mean, a smart innovative farmer, who thinks that, you know, young
12 calf diseases are a big issue, I would just split my operation
13 and say, okay, my -- I'm going to have two businesses, one would
14 be producing, you know, milk, and one would be raising just, you
15 know -- I could still feed them organic grain or I might not, but
16 I would just maybe set up an arrangement with my neighbor who
17 also is in the same thing, and I'd say I'll sell you my calves.

18 MR. SIEMON: He just said they can't go out and come
19 back in, those same heifers.

20 MS. KOENIG: No, that's not what I heard.

21 MR. SIEMON: No, that's what he just said. Once they
22 leave the organic farm, they can't go off again.

23 MR. MATHEWS: Organic animals cannot leave the organic
24 farm and come back.

1 MR. SIEMON: So, they would just sell them.

2 MR. MATHEWS: Organic -- if they went to a conventional
3 farm.

4 For all of those who are interested, for several
5 months, there's been Q&As on this issue on our website.

6 CHAIRMAN CARTER: Mark?

7 MR. KING: I'm just going to present, you know, a what
8 if here. All right. Let's say -- no. I want to follow Rosie's
9 logic here. One is, all right, I have an organic dairy farm. I
10 am forced to treat a young animal for whatever reason. Okay. I
11 then sell that animal to another organic farmer who then can
12 manage --

13 MR. SIEMON: Wait a minute. Let's stop it right there.
14 What you said was that you took an organic animal, treated it
15 with a prohibited substance and then sold it to another organic
16 farmer. You cannot do that.

17 MR. KING: Hold on, hold on. Now, if I'm reading this,
18 though, that organic farmer can buy stock off the farm and manage
19 it --

20 MR. SIEMON: Not organic livestock.

21 MR. KING: Right. Any animal, any place, any age, any
22 source, for 12 months.

23 MR. MATHEWS: But you cannot buy a formerly organic
24 animal and convert it back to organic. It says it in the

1 regulation.

2 PARTICIPANT: 205236(b)(1).

3 MR. MATHEWS: Thank you, Kelly.

4 I said you cannot take an animal off of an organic farm
5 and then bring it back to another organic farm. It loses its
6 organic status.

7 MR. SIEMON: The crux of the issue that the committee
8 would like to do is try to see, if possible, unified standards
9 for all organic dairy farms. That's the bottom line of what we
10 want to get done, and Rick, I think that goes against obviously
11 what you're interpreting, but we just don't see how you can have
12 different standards on-going for different -- the same organic
13 dairy farm. We need to have a unified standard. I think we have
14 a flaw here, and so that's what we tried to -- we've tried to
15 narrowly work with what we could do to unify it, not try to deal
16 with all of the issues because there's so many different
17 interpretations we could attack, the medication one, but this is
18 -- our goal was to have a unified standard. I think that's the
19 level we need to have this discussion about. Isn't that what we
20 want?

21 MR. MATHEWS: Well, I don't disagree with, George.
22 That's been the whole issue for months now, is the fact that the
23 standards as they are written create advantages or disadvantages,
24 depending on which side of the fence you're on.

1 MR. SIEMON: So, therefore, though, you're saying,
2 though, that -- I agree with you what the rule says, but the
3 preamble is not a bearing enough to shift over that
4 interpretation.

5 MR. MATHEWS: The regulations are what we have to
6 enforce to.

7 CHAIRMAN CARTER: Okay. Mark and then Jim.

8 MR. KING: Okay. Just to follow up with Kelly's point,
9 205236(b)(1), which reads, "Livestock or edible livestock
10 products that are removed from an organic operation and
11 subsequently managed on a non-organic operation may not be sold,
12 labeled or represented as organically produced."

13 My example is I've sold it to another organic
14 operation. Therefore, it is an organic --

15 MR. MATHEWS: But before you sold it to another organic
16 operation, you treated it conventionally by applying or injecting
17 into that animal a prohibited substance which removed it from
18 organic status.

19 MR. KING: But the Act says I can do that if illness is
20 present.

21 MR. MATHEWS: But we also say that if it is done, it
22 loses its organic status.

23 CHAIRMAN CARTER: Jim, and then -- it's a good
24 discussion. Jim?

1 MR. RIDDLE: I agree that animal could not be sold as
2 organic, but it could be sold as conventional, and Rick's
3 interpretation is saying you can buy conventional stock and then
4 treat it organically for 12 months to produce organic milk, but
5 I'm looking at this as an inspector.

6 Now, I agree that there are two entry points to come
7 into this, one with the full 12 months organic, the other with
8 the whole herd conversion. Two different entry points. That's
9 not a problem for an inspector to verify. But it's a nightmare
10 when different herds are under different standards, depending on
11 what that entry point, especially if you start talking about the
12 entry point of by animal, not just by farm, but what's the life
13 history of that animal, you know, head-by-head? I just don't see
14 this as being practical.

15 I'm on the Livestock Committee now, and I really
16 support getting a unified standard, a unified interpretation
17 coming out of here, and I think we need to push our
18 interpretation forward and let it go to the lawyers and see if
19 that is a viable reading of this rule. I think it is. I think
20 there is a difference of opinion here that could be interpreted
21 either way.

22 CHAIRMAN CARTER: Okay. Then Kevin, and then we're
23 going to go on through the rest of this, and then we'll have the
24 discussion on how we want to act on any of this. So, Kevin, go

1 ahead.

2 MR. O'RELL: I agree with Jim that, you know, there
3 should be an interpretation that we all agree upon, but, also, I
4 think we've heard some public comment this morning, particularly
5 from OTA, about some other issues that weren't raised in
6 consideration of the Livestock Committee before this on the
7 medication side.

8 There's been a fact that this has not been published
9 for a 60 day period. Now, whether that's a full requirement or
10 not, I think it appears that the expectation from the public is
11 that we should give it time to get full public comment in, get
12 the OTA's response and their language, and I would like to see --
13 I would think we should defer this till October -- till the next
14 October meeting.

15 CHAIRMAN CARTER: Okay. And I'm not going to -- we're
16 not going to get into discussion on action right now because I
17 want George to finish.

18 MR. SIEMON: If you look at 3-I, and you just added
19 animals born on the farm must be treated from last third, it
20 really clarifies and unifies the whole standard. Two words, in
21 my opinion, and so I just don't know where a technical change is
22 and a technical change isn't, you know, because, to me, that's
23 truly what the preamble intended and what the intent is, you
24 know. Just those two words make a big, big difference.

1 All right. Do you want to go on to Number 4?

2 CHAIRMAN CARTER: Yes.

3 MR. SIEMON: Number 4 is -- Issue Number 4 is not very
4 -- there's no real change here, but if you read it the way it was
5 read, I don't think it's -- the breeder animal -- this is a very
6 technical issue. The breeder stock is the mother of a beef
7 mother cow who will never possibly be slaughtered, and if you
8 read through the rule, Dave and us thought that there was a
9 chance someone could actually think they could take a brood cow
10 and after they weaned the calf put it on conventional feed
11 before the last third of gestation and then put it back on
12 organic feed, if you read the rule as a purely technical reading.
13 I think that's pretty bold to have anybody think they could do
14 that, but, so, we just wanted to clarify that they can't go in
15 and out of organic production, even though they themselves will
16 never be an organic slaughter stock. They themselves will never
17 -- you know, aren't driven by this in and out.

18 So, I don't know if it's really necessary, but we just
19 wanted to try to interpret everything that could be read wrong.
20 So, our interpretation says this to mean that once brood animals
21 are converted to organic management, they cannot be rotated
22 in/out of organic management. The intent of the rule is that any
23 animal brought on to a certified farm must be fed and managed
24 organic from that point on.

1 CHAIRMAN CARTER: Any discussion on that point? Okay.
2 Emily, and then --

3 MS. BROWN-ROSEN: Does this mean you're saying it
4 cannot have a split operation? I mean, some people may say like
5 their parent sheep is non-organic --

6 MR. SIEMON: No, this has nothing to do with --

7 CHAIRMAN CARTER: The question from the audience was,
8 does this mean you can't have split operations?

9 MR. SIEMON: No, this is not related to split. This is
10 an organic breeder stock cannot be rotated in and out of
11 organics.

12 MS. BROWN-ROSEN: But you could have non-organic
13 breeder stock that would have organic offspring? You're saying
14 no?

15 MR. SIEMON: Non-organic breeder stock? The definition
16 of the breeder stock is it has to be the last third gestation
17 forward to qualify. We're saying once you qualify a breeder
18 stock, it has to stay in the organic program. It can't rotate in
19 and out itself. The rule just deals with animals that are sold
20 organically or producer product that's organically. Is that
21 brooder crow producing -- is the calf a product? If you
22 interpret it as yes, then there's not a problem here. This is a
23 small point, but we're trying to clarify everything that could be
24 challenged.

1 CHAIRMAN CARTER: Jim?

2 MR. RIDDLE: I would just like to point out that there
3 is the allowance in the rule for some parasiticide use of breeder
4 stock prior to that last third of gestation.

5 MS. BROWN-ROSEN: I don't think that you've heard from
6 too many sheep people because I think that it's being routinely
7 interpreted that you can manage them organically the last third
8 of gestation and they would not be certified organic themselves
9 but their offspring would be.

10 CHAIRMAN CARTER: Emily, if you're going to address,
11 you need to come up here so it's on record. So, the transcribers
12 know what you're saying.

13 MR. SIEMON: They can administer parasiticides right
14 now, those breeder stock. There's nothing stopping them. This
15 is more about feed and antibiotic use.

16 MS. BROWN-ROSEN: I'm just saying that people have now
17 split operations on their farm where the breeder stock is
18 considered non-organic. They give them the parasiticides which
19 are not on the list prior to last third, feed them organically,
20 give them approved materials last third, then the lambs every
21 year are organic.

22 MR. SIEMON: The breeder stocks are allowed to have
23 parasiticides, though. It's not a split operation. That's an
24 organic plant operation. Between wean and the last third, you

1 can use the parasiticide. It's -- the last third is wrong. It's
2 a 90 day -- isn't it 90 days? They have to be organic. We're
3 strictly in the breeder stock now.

4 CHAIRMAN CARTER: What does the exception for
5 parasiticide really say? The exception? Do you know? It says
6 90 days prior to birth?

7 MS. ROBINSON: Parasiticides allowed may be used on
8 dairy stock when used a minimum of 90 days prior to the
9 production of milk or milk products that are going to be sold,
10 labeled or represented as organic. Breeder stock when used prior
11 to the last third of gestation but not during lactation for
12 progeny that are to be sold, labeled or represented as organic.

13 CHAIRMAN CARTER: Okay. But that's only dairy stock,
14 the way it's written.

15 MS. ROBINSON: No, I'm sorry. Breeder stock is Number
16 1.

17 CHAIRMAN CARTER: Okay. And that's an exception for
18 parasiticides only. If you aren't going to slaughter the stock
19 that is so-called breeder stock, I would read it the same way,
20 that I could administer antibiotics or any medication between
21 weaning and the last third or feed. I just want it clear that it
22 is absolutely -- that's the way it reads. I sure wish you guys
23 would get our clarifications, make me feel like we're doing
24 something up here.

1 Okay. Other questions?

2 (No response)

3 CHAIRMAN CARTER: Okay. Proceed.

4 MR. SIEMON: That's the end of this document here. So,
5 now it's going back to the process. I don't think Number 4 is
6 really a question. I think that's truly a clarification, you
7 know. The other three is where we're trying to -- this
8 difficulty of how they all fit together and have a unified
9 standard.

10 I'm concerned about delaying the decision just because
11 of the two days of workload in October. It really needs to be
12 decided, you all. If we do it, then let's make sure we decide
13 it, I guess. So, if you all want to vote to delay the question,
14 I don't -- I haven't -- only informally talked to the Livestock
15 Committee to see what their recommendation would be.

16 CHAIRMAN CARTER: We aren't going to make a decision
17 now obviously. A decision will be later this week, right? The
18 decision is later. This is for discussion and so I think, you
19 know, this issue --

20 MR. RIDDLE: I would just like to suggest that we get
21 our heads together on the Livestock Committee with some of the
22 commenters and see if we can't come up with some language that's
23 suitable.

24 MR. SIEMON: That was my suggestion. Maybe we should

1 try to meet after this right away, everybody that would like to
2 talk about this wonderful subject, and I think we should really
3 consider the medications. I was trying not to go against the
4 interpretation, but that's a whole other issue we can try to
5 bring up. So, I'd like to say that after this meeting, we sit
6 down and talk about some options.

7 CHAIRMAN CARTER: And I think that would be helpful. I
8 -- in discussion, Barbara specifically asked about, you know,
9 having this on the agenda for this meeting. You know, it was the
10 intent of the Livestock Committee to have this posted and it
11 didn't get on until August 15th, and so there was the 60 day
12 issue.

13 I had been receiving a lot of input from folks saying
14 we need to have this resolved. So, my interpretation was
15 everybody knew what was coming. They've had a chance to look it
16 over. Let's decide on it in September, but, you know, the
17 comments that were given today, folks are saying they do want
18 some extra time.

19 I think if we could get our heads together and try and
20 come up with something here, it would be helpful. If not, I'm
21 not opposed to, you know, recognizing that the October meeting is
22 jammed. This is a critical issue, and I would rather have it
23 done right than done quick. So.

24 MR. SIEMON: The other thing is, if we made a

1 recommendation now and if, by chance, the lawyers could give us
2 an opinion, that might make a second decision necessary. I hope
3 not.

4 MS. BURTON: Just one final comment. As past chair of
5 the OTA NPPL Committee, I know what it takes to get a group of
6 producers together to come up with a recommendation, and it's not
7 an easy task, and it's a lot of time and a lot of effort, and
8 then you have to get recognition from the QAC to even present a
9 document like that. So, 30 days, 60 days is not a lot of time
10 for them to come up with their formal recommendations.

11 CHAIRMAN CARTER: All right. Other discussion?

12 (No response)

13 CHAIRMAN CARTER: Okay. Then we will close this part,
14 and we are going to take a break right now for 15 minutes. For
15 those of you who are having difficulty with this, that means 1-5
16 minutes. 10 after 3.

17 (Whereupon, a recess was taken.)

18 CHAIRMAN CARTER: Let's get started.

19 (Pause)

20

21 Materials Committee

22 CHAIRMAN CARTER: We are ready to move to the materials
23 process here. So, Kim?

24 MS. BURTON: Okay. If you care, if you could turn to

1 your agenda, I'll go through the materials. I'm going to do this
2 first and then I'm going to get up and do some overheads, but
3 just so that you can follow me with what materials will be
4 reviewed at this meeting and which ones will not, we'll just go
5 ahead and go through the agenda.

6 Crops is going to be up first. There are a number of
7 materials on the Crops agenda that will not be reviewed, and I'll
8 go through those and try to give you some justification as to the
9 best of my knowledge as to why they will not be reviewed.

10 Potassium sulfate. That's the first material. That
11 one will be moved to the October meeting. We have received that
12 TAP. However, because of the late time that we got it, we just
13 got it Friday, I believe, we decided to defer that to October.
14 With 33 materials, we didn't feel that this Board can justify one
15 at the very last minute. So, it was questionable whether we'd
16 even receive that TAP. So, that will be in October.

17 The Ozone will be reviewed, two petitions, actually
18 three separate applications but two petitions. Potassium
19 Silicate. We did not receive that TAP in time for this meeting.
20 So, that will be moved to the October meeting, to the best of my
21 knowledge. It seems to be a day-to-day deal. The
22 Tetrahydroperipheral alcohol. We did not receive that TAP either
23 for this meeting. I do want to point out against the time lines
24 on this, this material was passed along to the contractor around

1 the deadline date of May 13th-May 14th-May 15th. So, we really
2 tried to push to have this material but they just didn't get it
3 finished. They're still waiting for the material to come back
4 from the reviewers.

5 The pheromones. This material was to amend the
6 annotation and we actually took this off the agenda quite awhile
7 ago. We have been -- we've received several petitions for inerts
8 and pheromones. So, we decided to just go ahead and review those
9 and those, we've got two of those that will be reviewed at the
10 October meeting. The Chilean nitrate. One to amend the
11 annotation, one to remove it. That was deferred from our last
12 meeting, and we will be voting on that this meeting, I hope.

13 1-4-dimethylnapthalene. That's another material that
14 the TAP did not get finished for this meeting and will be pushed
15 over to the October meeting. All of your livestock materials are
16 a go, and all of your processing materials, with the exception of
17 the glycerolmonoolate and that petition was formally withdrawn
18 by the petitions because we found an organic alternative.

19 QQuestions?

20 MR. SIEMON: Just so I understand the process, is --
21 I'm looking here. Are we voting tomorrow on livestock, on
22 materials, or are we voting only on the last day, like we've done
23 other times? It looks to me like we're voting tomorrow.

24 MS. BURTON: Well, how we did it the last meeting,

1 because the committees are coming forward with recommendations,
2 we're actually voting at that time. So, they will come forward
3 with the recommendations, make a motion, and we'll go ahead and
4 vote.

5 This is redundant for a lot of you folks who have been
6 at these meetings every single time. For those of you that
7 haven't --

8 CHAIRMAN CARTER: Turn the microphone around, Kim.

9 MS. BURTON: Okay. What this is, I apologize for not
10 having this up there, -- okay. Hopefully that's clear enough.
11 This is the material review process, and again this is -- even
12 though it's a thick flow chart, every time we have a meeting, the
13 time lines change. I will note that you'll see the minimum
14 review cycle. We have tried to extend that to give the
15 contractors as much time as possible to get the TAP reviews back
16 to the Board.

17 About a year ago, that review cycle was 90 days. This
18 was not enough time. We extended it out to a 145 days, and some
19 of the TAPs that we actually are going to be reviewed at this
20 meeting didn't even get that 145 days. So, we've really been
21 pushing. The pressure that we're all feeling is finding that
22 balance between an adequate TAP and the material review.

23 We're assuming that we're going to have a spring
24 meeting, I hope. I'm sure there will be more materials to

1 review, and I just put March up there because that usually
2 coincides with the West Coast National Foods Show. A petition is
3 received. The NOP Office will have a couple weeks to review it,
4 make sure that a petition is complete. They will forward that to
5 the Materials chair. I don't know how to make that any -- I take
6 that petition, run it to Kinko's, get a copy made, forward it to
7 the Materials chair -- to the committee chair. We discuss it.
8 They discuss it, determine whether or not it needs a TAP review.
9 Okay.

10 One thing I want to comment on the livestock materials
11 that we are reviewing, those came directly through the committee
12 and they came really fast and really furious and there's comments
13 that some of these shouldn't even have been reviewed. That's --
14 unfortunately, it was a fast-track process. Very little material
15 in there, and we got those to the TAP contractors in a very short
16 time.

17 The petitioner is notified whether or not the TAP is
18 going to be forwarded or if it has to be rejected. Then we've
19 got a time lag here where the contractor is actually working on
20 the TAP. What we'd like to see is, they've got about a 115 days,
21 30 days prior to a meeting is the date that we have set that we
22 would like to see TAP reports back to the committee, so that we
23 can start doing our review process. But that's our goal. We get
24 30 days to review the TAP report and a petition. We come to our

1 meeting and we vote on them.

2 Questions? Rosie?

3 MS. KOENIG: As far as the future ones, you said that
4 there was livestock. Those were an exception. There's no other
5 exceptions, correct?

6 MS. BURTON: I hope not. This is just a spread sheet
7 that I keep to try to keep track of what materials are being
8 reviewed by what meeting. You'll see that these are all the
9 September meeting materials. It lists what the material is, the
10 category that it's been petitioned for, the petitioned use of the
11 material, the date that the petition is sent to me and then the
12 time lag in between that is the time that it's decided to go
13 forward to a contractor, and then I update the Board with this
14 periodically. I try to do it every time we have an Executive
15 Committee talk which is once a month. This list is set to
16 coincide with the list that you got in the agenda.

17 Here are the materials for the October meeting. Right
18 now, we've got six, unless we defer some for the October meeting,
19 but these are the materials that we've actually got pushed over.
20 1-4-dimethylnapsylene, potassium sulfate, potassium silicate,
21 tetrahydroperipheral alcohol. We've got an inert ingredient in
22 the pheromone and then the PHT is also in there.

23 MR. SIEMON: There's no livestock ones carrying over
24 right now?

1 MS. BURTON: I don't know. I didn't see any
2 recommendations. I would assume, but I don't know.

3 And then, I've got a number of petitions sitting on my
4 desk that basically have no direction, have been coming in since
5 mid-May, and are just waiting for that TAP money to get
6 distributed to the contractors.

7 MR. MATHEWS: Kim?

8 MS. BURTON: Rick?

9 MR. MATHEWS: Just one correction. The TAP money
10 itself is not distributed until the TAP is complete. It's a
11 matter of the contract actually being with the vendor.

12 MS. BURTON: So, what I'll do now is, now that we know
13 that money's at least in the pipeline somewhere, I will go get
14 the copies made, forward all of these materials to the
15 appropriate chairs, and we'll start determining whether or not
16 these need to be forwarded for TAP. Twelve of these TAPs in the
17 new materials. Whether or not all of these go through the actual
18 TAP process, we'll have to determine. Okay.

19 CHAIRMAN CARTER: Okay. Thank you, Kim.

20 We'll go ahead and proceed then. Owusu? Crops?

21 MR. BANDELE: So, I take it, we're now dealing with the
22 recommendations?

23 CHAIRMAN CARTER: Yes.

24 MR. BANDELE: Which was originally on tomorrow's

1 agenda.

2 CHAIRMAN CARTER: Yes.

3 MR. BANDELE: Okay. The Crops Committee had three --
4 well, actually two substances but several petitions, and we're
5 going to take a look at the Chilean nitrate first. There were
6 two petitions dealing with Chilean nitrate. One had to do with
7 Dennis this morning.

8 CHAIRMAN CARTER: Owusu, because we are moving into
9 this now, there's some of the folks that don't have their
10 materials down here. So, we'll take another five-minute break
11 while we --

12 PARTICIPANT: There's a question about changing the
13 agenda, also.

14 PARTICIPANT: Also, action is indicated on this for
15 tomorrow.

16 (Discussion off the record.)

17 CHAIRMAN CARTER: We can discuss then -- probably what
18 we'll do then, to keep ourselves within legal bounds here, is
19 maybe go through and talk about the committee work plans at this
20 point.

21 PARTICIPANT: You can discuss the materials, but you
22 can't take any action until tomorrow because the agenda shows
23 that the action will be taken tomorrow.

24 CHAIRMAN CARTER: Okay.

1 PARTICIPANT: The concern that I have is that there may
2 be people traveling here today who want to see what happens with
3 the actions tomorrow.

4 CHAIRMAN CARTER: Okay.

5 PARTICIPANT: But they might also -- my concern would
6 be they might want to be present for the review process itself,
7 not merely for the action.

8 CHAIRMAN CARTER: Well, yeah. We do have, though, on
9 the agenda the report and discussion of petition materials. So,
10 I think we're well within our bounds to talk about them today and
11 that was well publicized.

12 PARTICIPANT: That's correct.

13 CHAIRMAN CARTER: It's 3:30 right now. Yeah. So, when
14 Jim gets back here, we'll -- nothing like a well-oiled machine.

15 (Whereupon, a recess was taken.)

16 CHAIRMAN CARTER: We will this afternoon go through and
17 just have each of the committees talk about the materials and
18 then we'll do our -- talk about our work plans today. We won't
19 do any action on the materials today because --

20 MR. BANDELE: Do you still want us to report the
21 committee --

22 CHAIRMAN CARTER: Yeah.

23 MR. BANDELE: -- action report?

24 CHAIRMAN CARTER: Yeah.

1 MR. BANDELE: Okay.

2 CHAIRMAN CARTER: Okay. So, go for it. That's a
3 technical term.

4 MR. BANDELE: Chilean nitrate. Currently, it is
5 allowed. It's a restricted natural chemical that is allowed in
6 crop production. The only provision is that it cannot be used
7 for more than 20 percent of the crops' nitrogen balance, so to
8 speak, and in my mind, that's really hard to really enforce. I
9 think we had several discussions on that in the committee, and as
10 you know, what's really done is you really are making an
11 estimation of what nitrogen you're actually applying because you
12 don't -- first of all, there's no real accurate tests for
13 nitrogen on a typical soil test. Nitrogen is not a part of that,
14 and in the soil testing arena, I think most of your total
15 nitrogen is converted to ammonia and that determination is made
16 but that does not mean that that total nitrogen, all that total
17 nitrogen is available for plant growth. So, there is, you know,
18 in my mind, some problems with enforcing it, but be that as it
19 may, that's the rule as it now stands.

20 We considered the first petition in terms of the
21 petitioner requesting that the annotation be removed, and if that
22 be the case, that would just make Chilean nitrate a restricted --
23 a chemical that would -- a natural chemical that would not be
24 allowed in organic production. Several reasons were given. One

1 has to do with the environmental impact of mining Chilean
2 nitrate. This would be the same concern that people would have
3 for any mined chemical, such as rock phosphate. There are
4 problems, even though that's allowed, there are problems with the
5 environmental implications of mining.

6 There are also problems with high -- with chemicals
7 with high concentration, and the Chilean nitrate is 16 percent
8 nitrogen and that's one of the higher concentrations when you're
9 looking at natural chemicals. In the case of synthetics, it's a
10 different story. For example, with ammonium nitrate, that's
11 33/34 percent nitrogen.

12 Other concerns. So, that would lead to, you know, most
13 of the time, even if the ammonia, if it's applied as ammonia,
14 eventually by the soil bacteria, it's converted to nitrate which
15 is negatively charged, unlike some of the chemicals like calcium
16 which have a positive charge or a potassium. There is the
17 cation exchange capacity, and the soil colloids being
18 negatively charged help maintain it in the soil and prevent
19 leaching, but whereas with the nitrate, there are problems with
20 leaching it, particularly when more nitrogen is applied than is
21 taken up by the plant, the crop.

22 The petition primarily came, as some of the growers
23 today testified, particularly in California and other areas, in
24 which when they are growing leafy materials, leafy plants, I'm

1 sorry, crops, the brassica, such as broccoli and cabbage, etc.,
2 during the cool season, there's a problem with having enough
3 available nitrogen for optimal crop production. So, those were
4 the concerns.

5 Many areas, for example, most of the Northeast, does
6 not allow Chilean nitrate. Japan does not allow it in organic
7 production nor does the European Union. We did have -- we had
8 Keith come in and discuss some of those ramifications, although
9 you all are aware that those are primarily economic
10 considerations which really should not be a part of the decisions
11 as it applies to the reasons for decisions in terms of materials.

12 A lot of the -- most of the committee members had
13 serious concerns about Chilean nitrate, and it was -- in the
14 discussion, many -- most of us were on the borderline between --
15 and I'll let other committee members chime in as they see fit,
16 but on the borderline between dealing with the sunset on this one
17 because in the past, if you look at some of the background
18 information, it was always to be used with the eye of finding
19 alternatives. In fact, I think in one of the TAPs, it mentioned
20 the fact that if in fact the grower relied solely, you know, or
21 relied heavily on Chilean nitrate without trying to find
22 alternatives, that could be grounds for decertification. So,
23 that's how serious this issue was.

24 So, we were back and forth between the sunset, having a

1 sunset of three years. I think one of the TAP reviewers
2 recommended that, and on the other hand, the committee was fully
3 aware of the fact that, you know, that there are unique regional
4 problems and we have to look at all situations. The fact that
5 already there are very, very few natural fertilizers, particularly
6 nitrogen sources, available, and committee members were somewhat
7 concerned about taking again one of the few naturally occurring
8 substances that farmers could use.

9 As far as alternatives are concerned, most of the
10 growers contend that there's no way that they could find
11 alternatives or that alternatives that they have are not
12 adequate. Blood meal was mentioned as a possible alternative,
13 and, you know, you heard this morning some of the concerns with
14 blood meal. So, in the final analysis, the vote was four to one,
15 and I think we're getting copies of the decisions momentarily,
16 but four of us on the committee voted not to change the current
17 annotation; that is, to leave it as such, so that it still can be
18 utilized for up to 20 percent of the crop's nitrogen requirement.
19 The fifth member voted to establish a three year sunset after
20 which Chilean nitrate would not be allowed in crop production.

21 We did have one other consideration, and I'll let Rose
22 point that out, in terms of some of the other issues involved in
23 this one.

24 MS. KOENIG: So, as Owusu said, there's going to be --

1 so, as I understand, I had to get my TAPs, we're not voting on
2 anything today. So, we're just expressing our motion?

3 MR. BANDELE: Right.

4 MS. KOENIG: So, as Owusu said, the first motion of the
5 committee is going to be for leaving Chilean nitrate as status
6 quo, 20 percent clause, within the rule. So, it would be to not
7 accept the proposed changes for banning it.

8 The second motion. We want to put this in the form of
9 a motion, and this, I think, we could discuss today but however
10 not vote on it. So, the Crop Committee asks for the adoption of
11 the following policy directive, and this is a policy directive to
12 the USDA, and we feel that this should be the format upon which,
13 when we make decisions, that if it's something controversial or
14 something that the committee, you know, if there's issues, I
15 guess, within a material that the committee feels that needs to
16 be directed, that committee should write a -- you know, we should
17 -- they should put forth a vote on the material at present time,
18 but, additionally, they should come forth with a policy
19 directive, and the reason for doing that is (a) it sets forth a
20 record stating what the NOSB's position was. What were the
21 things within the current TAP report that need to be worked on,
22 because, as you know, there's this renewal period every five
23 years, and our fear with the Chilean nitrate is we're going to
24 see the end of five years and there are going to be no changes in

1 that TAP report, and then again, we're saying okay, well, based
2 on what we see before us, we can't -- you know, we're going to
3 keep things status quo, and that's -- you know, for some people,
4 that may be fine. For others who feel like there is
5 controversial areas, we feel that they need to be addressed, and
6 we would like the NOSB to actually adopt this idea of a policy
7 directive to the USDA.

8 So, our policy directive that we would like the
9 committee to adopt would be the NOSB requires the following data
10 and information regarding issues brought forth to date in the
11 technical review of Chilean nitrate that should be addressed upon
12 rereviewing the product within the five year period as required
13 in the rule. I couldn't find it in the section when I wrote
14 this.

15 So, Number 1 is economic impacts and assessment. The
16 additional again information and data that will be needed for the
17 next TAP review is we recommend that USDA, through the AMS, go
18 and seek out information on the extent of use in terms of the
19 number of farmers who are using it, the geographical distribution
20 of the users, the size of operations, crops applied to, and the
21 methods and timing of application. Those were five areas within
22 the TAP report that we need more information on upon the next
23 review in five years.

24 And then, Number 2 is the environmental impacts and

1 assessment. Sodium and nitrogen accumulation in soils, the
2 impact of sodium nitrate on water quality, the impact of sodium
3 nitrate on soil microorganisms, the impact of sodium nitrate on
4 soil quality, comparison of approved alternatives, naturals and
5 the listed synthetics in various cropping systems, and then
6 development of best management practices for the material.

7 Now, we're not saying that all of those are going to be
8 addressed in the next five years, okay, but what we're saying is
9 we've reviewed the TAP report and the current information before
10 us. These are all the areas that we had -- still had questions
11 upon, but we still made the decision at this present time as best
12 we could, and we're saying that this sets forth for researchers,
13 for workers within the USDA or at land grant institutions, to
14 them, look at what we're doing and say these are the things that
15 we as a body feel are our priorities for that product, and it
16 gives hopefully the community a little bit more direction.

17 Now, the question becomes, okay, in five years from
18 now, what happens if there is no new information for the new
19 members on the NOSB? Well, you know, you could interpret it in
20 two ways. My interpretation of it is that if the industry
21 doesn't put any focus on gathering any of the data and
22 information, then perhaps it was a product that should never have
23 -- should not be included on the list because instead, what we do
24 is we listen to impact data, the day of the reports and base our

1 decisions on testimony that's not backed up with data, and I
2 don't think that that should be the continual policy of this
3 body.

4 CHAIRMAN CARTER: Barbara, you wanted to --

5 MS. ROBINSON: Just as a point, Rose. I don't have a
6 problem with making that policy recommendation but don't say AMS,
7 say USDA.

8 MS. KOENIG: Okay. Yeah.

9 MS. ROBINSON: Because AMS doesn't have the expertise
10 necessarily. I mean, you want the Department or designee of the
11 Department.

12 MS. KOENIG: Yeah. What we're saying is -- I guess
13 what we were saying is that somehow, we want to make public, you
14 know, and to researchers, etc., the information that is lacking
15 on some of these materials, so that it fosters -- you know, if
16 funding's going to come for research, that that funding may, some
17 of it, a portion of it, be directed towards these questions, and
18 without those questions being out there in some kind of public
19 format, how do you get that information to people, and I mean, we
20 go through the expense of writing these TAP reports.

21 Hopefully what then happens in the next round on
22 Chilean nitrate is we get the old TAP report and then an
23 amendment to it of anything that's been -- you know, anything
24 that's current and any of these things that have been addressed

1 in the past five years. As I'm saying, if it's a blank sheet,
2 then one has to question whether it's really an important product
3 for the industry.

4 MR. BANDELE: I failed to point out that in the TAP
5 review, two of the reviewers did vote to prohibit its use, and
6 the third reviewer was in favor of sunset.

7 I'd like to also give the other committee members a
8 chance to chime in, if they have anything to add. If not, I
9 guess questions are in order or discussion.

10 MS. KOENIG: Are we going to see that policy directive
11 come so that we could -- we're going to then recommend it? We
12 will have it in writing tonight?

13 MS. KOENIG: Yeah. I mean, I can write it up. I guess
14 what I wanted to find out was -- I mean, we can do it. I'm just
15 trying to get, I guess, information from Rick and Barbara as far
16 as are these the types of -- does this make sense in terms of
17 answering some of the kind of long-term questions that we have in
18 terms of the material process? Do you think it's good to
19 implement this type of thing through the materials process so
20 that there is some kind of record?

21 CHAIRMAN CARTER: Rick?

22 MR. MATHEWS: Well, to answer Rose's question, that any
23 time that we can gather more data, it's probably a good thing.
24 So, if that's a tool that the Board thinks that it needs, well,

1 then, we're more than happy to see what we can do to try and make
2 that additional information available.

3 But as Barbara has pointed out, we don't have the
4 expertise to put that together, but I'm sure that there's some
5 way we can try and find that data.

6 MS. KOENIG: I'm trying to figure out how do you link
7 within your institution, you know, institution being at this
8 present time USDA. How would your program -- we're not saying
9 that you're going to hire researchers, but you are a small part
10 of a larger body that does collect economic data, that does do
11 research.

12 How do we facilitate, you know, the identification of
13 our position on getting our fair share of that kind of data to
14 answer the questions we need for the industry?

15 MR. MATHEWS: Well, one of the avenues that probably
16 would be a good one would be to tap into the certifying agents
17 who are already certifying people who are using it and gather
18 data that way. The question is, who would do that? And then, we
19 would also have to understand that we'd have to make a
20 determination as to whether or not that's something that we would
21 require as additional information that we can require under the
22 regs. So, I mean, that is one avenue that we could look at.

23 MS. KOENIG: But just to make a point, this type of
24 data, you know, perhaps not in the form -- maybe economic impacts

1 is not what we should entitle it, but those are types of things
2 that fit within the criteria that we judge these TAPs on. So, I
3 mean, we're following --

4 MR. MATHEWS: You're indicating that there are
5 currently data gaps for what you need in order to make an
6 educated determination of the suitability of the product, and
7 what you're asking is for us to help you find a way to fill in
8 that data gap, and I'm saying we're more than happy to work with
9 you to accomplish that.

10 There is something else that I wanted to address.

11 CHAIRMAN CARTER: Go ahead.

12 MR. MATHEWS: In the testimony that we just received
13 from Owusu and from Rose, the thing that I noted was that there
14 was discussion on the petition to remove Chilean nitrate from the
15 national list. There was also discussion on how we could fill in
16 data gaps. What I did not hear is discussion directly pertaining
17 to the petition to amend the annotation to accommodate the
18 speralena industry. That's a separate one? Okay.

19 MS. BURTON: Rosie, a couple of things. I believe that
20 we have set some precedents where we actually have asked the NOP
21 to help gather more information that was lacking in a TAP review,
22 and so we do somewhat have some mechanism, and I believe that
23 money actually came out of the TAP money.

24 MS. KOENIG: What I'm --

1 MS. BURTON: We've researched it before.

2 MS. KOENIG: Right.

3 MS. BURTON: So, we've asked for different data.

4 MS. KOENIG: What I'm saying is that based on the TAP,
5 I think the TAP addressed -- it provided the information, not 100
6 percent because nobody's perfect, but, you know, here now, this
7 point in time, we assume that the TAP is valid. What we're
8 saying here now at this point in time, even though the TAP is
9 valid, there are these issues that come glaring out at you that
10 still make the decision difficult today. It's still going to
11 make the decision difficult in five years. Let's address those
12 and/or pinpoint those issues as we're going through this process,
13 spending the time going through that process, so that five years
14 from now, the next Board, we're not going to be here, but that
15 the process is facilitated and moves ahead at a faster rate
16 perhaps or a better rate.

17 CHAIRMAN CARTER: First, Barbara, then Jim, then Owusu.

18 MS. ROBINSON: We don't have any problem articulating
19 that to, you know, there's NRCS, ARS, ERS, alphabet soup, Ag
20 Research Service, Natural Resource Conservation Service, and the
21 Economic Research Service, and they're always, you know, on the
22 prowl for research issues, especially, you know, hot ones, and
23 there is money from the Farm Bill obviously to explore research
24 issues related to producers either entering or struggling or

1 whatever in organics.

2 So, I don't -- we can articulate that, Rose, and I
3 think the people will jump on it, you know. Our worse case
4 scenario is nobody bites and we have to go out and do a co-op
5 agreement. We can do that, too. But I don't think you have to
6 worry about that. As long as we have something, we're happy to
7 circulate it around the Department and folks will get in touch
8 with you and pursue it.

9 CHAIRMAN CARTER: Jim?

10 MR. RIDDLE: Yeah. Several things on this. I'll come
11 a little closer to the mike. One thing on the suggestion for
12 some economic impact. I would like, if that is going to move
13 forward, like to see added to that consideration, the fact that
14 the European Union and Codex do not allow this material. So,
15 what's the impact on export products? What's the impact on the
16 certification process and cost to verify compliance with this
17 additional standard as well? I think that has bearing, but it
18 sounds like a number of the things that you listed, the concerns
19 about sodium build-up, nitrate leaching, negative impact on
20 nitrogen cycle and nitrogen fixing plants, some of the
21 alternatives, these are things that should have been addressed in
22 the TAP review more fully than they were.

23 MS. KOENIG: Well, it's not that they weren't
24 addressed. I mean, we all know, you know, and there's a lot

1 known about these kinds of materials. It's what's not known
2 specifically. You know, the more data you can have, I mean, a
3 lot of it is just you assume if you're only using it 20 percent
4 rather than what was used before at 100 percent, that you're
5 having less environmental problems, less water quality problems.

6 MR. RIDDLE: My point is, instead of kind of
7 bookmarking this to be researched over the next five years when
8 this comes back up again, I would be much more comfortable,
9 especially in light of the fact that two of the reviewers voted
10 to prohibit and a third voted to phase out in three years, I
11 would be much more inclined to defer this particular petition and
12 this TAP pending further information and do it within the next
13 six months or within the next nine months rather than put it off
14 for five years.

15 MR. BANDELE: I appreciate those concerns, but to be
16 honest with you, in my mind, some of those things would not be
17 solved in six months. The first issue that you raised in terms
18 of the European Union, we had the same concerns, and as a matter
19 of fact, Keith joined us on that conference call. His advice was
20 to deal with the American farmers first and foremost, that there
21 are ways of getting around that.

22 But just to get back to Rose's point, for example, when
23 the growers say that there's no alternative, and we really don't
24 know fully, -- I mean, has there been research conducted

1 evaluating those alternatives, and that's going to take like
2 three years, you know, two-three year study, I would think. So,
3 some of those -- some of the things that we -- this is
4 information we'd like to see, could not in fact be obtained in
5 the next six months.

6 CHAIRMAN CARTER: Kim, you had your hand up at one
7 point. No? Okay.

8 Then let's proceed.

9 MR. BANDELE: Next, with the spiraleña, the presenters
10 this morning discussed their reasons for this. I think all
11 three, of the three reviewers, again on the spiraleña, one --
12 let's see. I think two voted to prohibit it and then the third
13 was in favor of the sunset.

14 The committee discussed this and we felt that actually
15 the whole issue of hydroponic production and how that fits with
16 organics, we did not include that in our decision, even though
17 that, you know, that may be a consideration in the future, but
18 the committee felt that relying totally on the -- I understand
19 that the use is a unique one, but we felt that relying totally on
20 the Chilean nitrate was not really in keeping with what organic
21 principles are.

22 So, on this one, I mean, all the other background
23 information would be the same, but the vote was unanimous not to
24 change the annotation as it currently exists, which means that

1 the spiraleña produces good use, up to 20 percent at this point.

2 Does anyone want to add anything further on that one?

3 PARTICIPANT: We are just doing committee discussion
4 today.

5 CHAIRMAN CARTER: This is just discussion.

6 MR. BANDELE: The third -- the second material was
7 ozone, and the TAP review involved three uses, to be used in weed
8 control, the control of certain soilborne pathogens, and also as
9 a cleaner for irrigation lines.

10 A little background on it. Ozone has been used up to
11 almost a hundred years, I think, in terms of water purification.
12 It is a synthetic. There are several concerns with it. One
13 concern that I had is that, Number 1, there are a lot of unknowns
14 associated with its use as in weed control and also there's some
15 discussion about its value as a pesticide, that it seems to be
16 more effective against the bacteria, I think, in the soil than a
17 lot of the fungal diseases. There's also a wide variation in the
18 amounts, you know. Some of the studies had various
19 concentrations for both weed control and pathogens.

20 As far as the TAP review on this one, two of the
21 reviewers approved its use for treatment in irrigation lines in
22 which it's applied through the drip system. One of the reviewers
23 voted or found -- did not recommend its use in either the -- for
24 weed control or for pathogen control. That reviewer did mention

1 some possibilities in hydroponic systems, but he didn't really
2 make that as a recommended annotation.

3 There are concerns -- that reviewer who was against it
4 was concerned of ozone as a pollutant. There are problems with
5 that and that was his main point there. Our committee was split
6 on this one. Of course, we voted that it was a synthetic as it
7 is. The vote for use in cleaning of irrigation lines was three
8 to two, three in favor of an annotation to be used for cleaning
9 irrigation lines only. As far as the weed control and for
10 soilborne pathogens, the committee felt that there was not enough
11 information. There were too many variables. So, the vote was
12 five to zero not to allow it at this point for either weed
13 control or for control of soilborne pathogens.

14 Do any of the committee members have any additional
15 information they wanted to add on that one?

16 CHAIRMAN CARTER: Jim?

17 MR. RIDDLE: Yeah. I have a question and really, it's
18 for Rick. This seems like a new technology. If it does not go
19 on the list for weed control and soil pathogens, could it be used
20 for research purposes, say, on a research farm, to experiment, I
21 mean, that has -- that's certified organic, could they use this
22 for further research or because it's not on the list, it would be
23 a prohibited material and therefore they could not? I just would
24 like to be clear on that.

1 MR. MATHEWS: Yeah. I think the answer would be that
2 the research -- if you're using a prohibited substance in
3 research, it would disqualify the product from being sold as
4 organic, and you would lose the organic status of the land.

5 MR. RIDDLE: So, it would be a split operation
6 essentially. If they did research, that would be a non-organic
7 portion of their research.

8 MR. MATHEWS: Yeah. It's going to have to be conducted
9 on non-organic land, and it would have to be sold on the
10 conventional market.

11 CHAIRMAN CARTER: Question from the audience?
12 Okay. A question about a temporary research variance or
13 temporary variance.

14 PARTICIPANT: It says you need permission. You have to
15 apply to the program.

16 PARTICIPANT: To the Administrator.

17 PARTICIPANT: To the Administrator.

18 CHAIRMAN CARTER: John, just go ahead and read that.

19 MR. RIDDLE: Temporary variances from the requirements
20 in certain sections may be established by the Administrator for
21 the following reasons, and Number 3 is practices used for the
22 purpose of conducting research or trials of techniques, varieties
23 or ingredients used in organic production or handling.

24 MR. MATHEWS: Doesn't say synthetic substances used in

1 production, and there's a general prohibition on the application
2 of prohibited substances to organic land.

3 PARTICIPANT: It doesn't say one way or the other.

4 MR. MATHEWS: It does. It says techniques, varieties,
5 or ingredients. A pesticide is not an ingredient. It is not a
6 technique, and it is not a variety.

7 CHAIRMAN CARTER: Rose?

8 MS. KOENIG: This was an issue actually Brian and Baker
9 and I just wrote a paper as kind of a guidance for researchers on
10 the rule, and when we got to that section on variances for
11 research, I tried to contact people at the NOP about
12 clarification of this very issue because, you know, I think you
13 have to make the distinction that there is research that's being
14 conducted on farm, on a certified farm, versus research that
15 might be conducted on certified land at a research facility, say
16 a USDA facility or a land grant institution, and there are a
17 number of them that are getting certified land.

18 So, I can understand perhaps your position in terms of
19 a farmer's field, but does that mean that even in research
20 facilities at land grant institutions or even through the USDA,
21 such as their site in Salinas that has 16 or so acres certified
22 organic, that those sites do not sell it, those products never
23 enter into the marketplace, and they could not qualify for a
24 variance for research for their certified organic land?

1 MR. MATHEWS: What is the purpose of the certified
2 organic land?

3 MS. KOENIG: The purpose is that the organic community
4 has stressed experimental research stations, land grant and USDA,
5 that their position has been that those facilities should go
6 through the certification process so that their research reflects
7 true farm, on-farm-type research, farm constraints, including the
8 economics involved and the costs of research and the process upon
9 which farmers have to go to get their land into research. So, it
10 really is to set up systems-type research that give real data,
11 economic, all the constraints that would go into a farming -- you
12 know, farm operation.

13 However, those facilities are for research purposes,
14 not for selling or entering those products within the
15 marketplace. So, they're solely there for experimental research,
16 not for, you know, market production.

17 MR. MATHEWS: Well, one of the two things that I
18 mentioned was that it could not go on to the organic market,
19 which you have excluded them from. The other thing is whether or
20 not the organic land would still be considered organic. I can
21 look into that. But what I'm looking at when I read this
22 regulation is that if a farmer wants to have research done on
23 their land and they want to have a prohibited substance applied
24 to their land, the Act and the regulations specifically prohibit

1 that unless it's on the national list.

2 So, I would still hold the land -- it cannot be used on
3 land that will be producing organic products less than three
4 years away, and the product can't be sold as organic. The -- I
5 guess the question that you guys need to be asking yourselves is,
6 is there something unique about that substance that would be
7 used, and then you turn around and let's say the research was
8 such that you had a petition filed before you and then you
9 rejected it? What is the basis of that rejection? Is it
10 something that is found to continue to contaminate the soil
11 later? Would you want that farmer growing it in that land that
12 you know that it was intentionally applied to?

13 So, I can look -- you know, we can take it before the
14 attorneys and discuss it further, but I think the Board needs to
15 look into whether they even want to go down that road.

16 MR. BANDELE: Yeah. I concur with Rose with the
17 concerns in terms of the land grant research, but the question I
18 had, Rick, was that, you mentioned that if it's a pesticide, it
19 could not be used. It's not a technique. But suppose it was
20 being tested just to unclog the irrigation lines and not as a
21 pesticide. Then what would the situation be? Would it be the
22 same?

23 MR. MATHEWS: Well, I guess my question to you is, is
24 there some way to capture that water or capture the --

1 MR. BANDELE: The ozone?

2 MR. MATHEWS: -- discharge from the --

3 MR. BANDELE: Well, see, that --

4 MR. MATHEWS: So that it doesn't contaminate the soil?

5 MR. BANDELE: That was one of the reasons why I in fact
6 voted against it, because I wasn't sure of that, you know. So, I
7 couldn't really answer that. But because it's such a new, you
8 know, technology, I mean, some of the uses were new, that was one
9 of the problems that the committee had and were skeptical of, you
10 know, allowing something that we in fact ourselves were not sure
11 of.

12 MR. MATHEWS: Well, as I read the regulation now, I
13 just go back and re-emphasize what I said, that as I read it now,
14 they would not be able to use the substance on organic land nor
15 sell the product as organic. If the Board wants to come back
16 with a recommendation that we go to the attorneys to see if the
17 substances would fit under there or if they wanted to come in
18 with a recommendation for a future amendment to that section to
19 allow it, I mean, you've got that avenue available to you, too.
20 But a strict reading of it right now, it says as I've already
21 stated.

22 And by the way, this issue has come up already for us,
23 and luckily enough for the researchers, it was something that was
24 already done under a previous organic systems plan that was

1 planned, and it was essentially pre-NOP. So, it was okay because
2 it was okay with the certifying agent.

3 CHAIRMAN CARTER: Nancy?

4 MS. OSTIGUY: I'm a bit puzzled, Rick, because then if
5 we follow what you're saying, we can't do research on something
6 until we know that it either is natural or it's on the list.

7 MR. MATHEWS: No, I'm not saying that at all. I'm
8 saying that you might want to do the research some place other
9 than on an organic farm.

10 MS. OSTIGUY: Right. But the problem with doing it
11 that way is that you don't know how it functions within the rest
12 of the system, and so I would actually argue that we ought to be
13 able to do research in a very restricted manner on a certified
14 organic farm at something like for testing possible organic
15 method, not selling the material, absolutely no selling of the
16 product, but otherwise functions as a certified organic farm so
17 that you have the system idea, the sustainable system idea in
18 place, but that only is the exception, not a farmer that may at
19 any time send that stuff off to produce.

20 MR. MATHEWS: And I'm not disagreeing with you. What
21 I'm saying is that I would prefer that the Board put together
22 their recommendation that says whatever it's going to say, but
23 for example, that research establishments or research plots that
24 receive an organic certification be allowed to maintain that

1 certification for the research purposes, if they apply a
2 prohibited substance which subsequently is determined not to be
3 an acceptable substance for organic agriculture, with the caveat
4 that none of the production from that would be able to go into
5 the organic market.

6 I think that's a separate question from the farmer who
7 has an investment in an organic status and then you have a
8 certifying agent saying yeah, go ahead and apply this prohibited
9 substance because that would be clearly a violation of the
10 regulations.

11 CHAIRMAN CARTER: Dennis?

12 MR. HOLBROOK: Going back to Owusu's question, the
13 thing about it is if we -- we've kind of come up with a
14 recommendation to utilize this for drip irrigation for means of
15 cleaning it. With my experience with drip irrigation, there's no
16 way you're going to be able to clean that without getting some in
17 the soil that goes through those emitters, let alone what you
18 flush out at the end of the turn row.

19 So, you've got a situation there, if you're going to do
20 that, then you've either got to approve the product or you've got
21 to not let any provision of its use be made.

22 MR. MATHEWS: And again, I'm not opposed to the idea of
23 this approach for research establishments because obviously the
24 research establishment we would be establishing would not be able

1 to sell the product as organic, and if it was eventually sold off
2 to a farmer that wanted to use it, they would -- you know, if
3 there were prohibited substances applied, we'd require them to go
4 through the three year conversion.

5 The real concern is that you don't want prohibited
6 substances in the hands of farmers who are certified that where
7 this material is being applied to their land and then as well as
8 being a part of the product that gets sold out on to the organic
9 market.

10 So, I don't think we're disagreeing. I'm just saying
11 write it up for us, and I would think that we would have a
12 favorable ruling for research plots. I don't know that you would
13 have a favorable ruling for actual on-farm research.

14 CHAIRMAN CARTER: Owusu?

15 MR. BANDELE: I think really, in reality, I don't think
16 many organic farmers would want to put these substances on their
17 farms if they couldn't sell it. So, primarily, I would see the
18 land grants as being interested in it.

19 Now, back to the point that Dennis made, that was
20 really why I voted it down in all three categories, the ozone
21 that is, because you really can't to me separate the -- unless
22 you're talking about differences in concentration, you really
23 can't separate what's going to be acting as, you know, a drip
24 irrigation cleaner, what's going to be acting as a weed control

1 and what's going to be acting as a pesticide.

2 MR. MATHEWS: And there is significant differences
3 between the two.

4 CHAIRMAN CARTER: Okay. Rose?

5 MS. KOENIG: Two points. One is, in terms of this
6 research clause, I mean, I don't know. What I'm understanding
7 from you, Rick, is you're saying go about that through this ozone
8 question in terms of making recommendations, and what I suggest
9 is we need to go into the 205101 where it talks about exemptions
10 -- I'm sorry

11 -- the variances. Anyway, that is the -- I mean, I would be
12 happy to do it within the Crops Committee in terms of making
13 recommendations in that section because right now, it is the
14 administrator of the program. It's so vague, the way it's
15 written, that I think that we can make recommendations and, you
16 know, guidance document for that section similar to the other
17 one.

18 MR. MATHEWS: I think the important thing to remember
19 here is that variance is provided for those producers who are
20 intending to retain the organic status of their farm and to sell
21 the product as organic. That's what the variance is for.

22 MS. KOENIG: It's the only section in which -- I mean,
23 I don't want to like drive this thing down like, you know, as if
24 I'm, you know, just really looking at something very specific,

1 because this thing has such broad implications, it's not funny,
2 in terms of the research world, that is the only avenue within
3 this whole rule that allows researchers to do what they need to
4 do and to allow this industry to move forward on a research level
5 and that's what it's going to take from both the Materials
6 perspective as we talked about on this other, you know, the
7 Chilean nitrate, to many of the other issues that we're going to
8 be dealing with in the future.

9 This is the only section of the rule, as I read it,
10 that researchers can use to get their work done on the farm. So,
11 it has applicability to researchers and to those certified acres
12 in which they deal with, and again, I mean, through the Crops
13 Committee, I would be happy to write something up as a guidance
14 document for that section of the rule and it's separate from all
15 these other materials issues. It's a totally different issue.
16 So, I mean, I would approach it that way.

17 The other thing in terms of ozone, there is precedent
18 in terms of how we deal with these types of issues, and it goes
19 back to copper. I mean, we allow it for certain -- copper
20 sulfate. Thanks. We allow it under very specific annotations.
21 So, with ozone, if we want it for that specific use, we may have
22 to go with an annotation that does deal in concentrations, but
23 it's not to say that we can't annotate something and have it for
24 a specific use because it's done throughout the rule. So, I

1 don't think that because we won't use it as a weed control or a
2 pathogen reducer, that does not mean that we can't use it as an
3 irrigation line cleaner, and there's many advantages of this
4 system versus chlorine in the system.

5 So, I think that what we need to do as a committee is
6 just come back with that annotation.

7 CHAIRMAN CARTER: Dennis? Mark?

8 MR. KING: This is really more of a question for
9 whoever wants to take a stab at it. Okay. Start with
10 205290(a)(3). It says, "Practices used for the purpose of
11 conducting research or trials." So, then I look for a definition
12 of practices. I don't find one, but I find a definition for
13 practice standard. Synonymous? Considered to be synonymous in
14 any way?

15 MR. MATHEWS: I don't believe it is, no.

16 MR. KING: But anyway, the practice standard goes on to
17 say that it is allowed and prohibited actions to establish
18 performance levels.

19 MR. MATHEWS: So, if you look in here, for example, 271
20 is facility pest management practice standard, 272 is co-mingling
21 and contact with prohibited substances. That's really what that
22 was practice standard stands for.

23 MR. KING: All right. Okay.

24 MR. HOLBROOK: Where did you find the practice

1 standard? Where was that at?

2 MR. MATHEWS: There's a definition.

3 MR. KING: In the definition section. It gives you an
4 idea.

5 MR. MATHEWS: You'll find that there are a number of
6 sections that refer to it as a practice standard. A practice
7 standard itself as used for those sections is defined in the
8 definitions portion of the regs.

9 CHAIRMAN CARTER: Owusu?

10 MR. BANDELE: I realize it was a sustainable thing to
11 put my committee work plan on the same page as these
12 recommendations, but that was an error. So, I apologize for
13 that.

14 CHAIRMAN CARTER: All right. Is that it for your --

15 MR. BANDELE: Yes, it is.

16 CHAIRMAN CARTER: Okay. All right. Let's move in to
17 the shortest part of the session, the Lifestyle.

18 MR. SIEMON: Well, I am not a material person.

19 Fortunately, I have an excellent committee with a lot of
20 technical background, and Jim Pierce is doing a tremendous amount
21 of work. So, I can't say any of these words. So, I'm going to
22 just try to go through them in the order I have them, if you
23 don't mind. So, how do you say B-U-T-O-R-P-H-A-N-O-L?

24 PARTICIPANT: Why don't you just give them all

1 acronyms? You know, PG, MH, MO, EKA.

2 MR. SIEMON: We have typed up, everybody, a summary
3 sheet of our position and our reasoning behind it, but we just
4 didn't know we were doing that today. So, we don't have it all
5 copied. So, I'll just run through some of the issues, and when
6 we vote on it, we hope to give you all because there's a lot of
7 materials here.

8 This one here, we definitely did determine it to be a
9 synthetic. It's used during surgeries. I'm just not good at
10 these words, you all. I'm just not good at these words. We --
11 one thing we were going to recommend throughout this, we made
12 some decisions this morning, I didn't take notes on to know
13 exactly, but we'd like to recommend to extend the withdrawal on
14 all the substances that have a withdrawal. So, we would like to
15 double withdraw them, and Jim, help me out. Did we say once in a
16 lifetime on just some of them? What did we decide this morning?
17 I kind of lost it this morning because we also talked about once
18 in a lifetime on some of these.

19 MR. RIDDLE: There was at least one material where we
20 recommended that.

21 MR. SIEMON: Okay. On this one, we just had synthetic.
22 We were not sure about the withdrawal. We were just doing some
23 research to see, but if there was one, we were going to recommend
24 it twice withdrawal. We know that and we've been told before

1 that we can't do that or there's debate about that, but we just
2 wanted to put that forward because everybody wants these
3 materials in the community a great deal and is willing to live
4 with that restriction. So, this is just used for surgeries. Our
5 recommendation is synthetic and it should be the following
6 restriction: for emergency medical use by a licensed
7 practitioner in accordance with FDA guidelines. Now, we're not
8 sure we need to have that because that's covered somewhere else,
9 but then twice withdrawal.

10 Does anybody else have any questions about it? I mean,
11 any other committee members, anything about this?

12 MR. BANDELE: George, could you explain a little bit
13 more the twice withdrawal thing?

14 MR. SIEMON: Huh?

15 MR. BANDELE: Twice withdrawal.

16 MR. SIEMON: Twice withdrawal? Well, a lot of times,
17 there's a withdrawal that you can't -- if it's a milk cow, for
18 example, you can't sell milk for three days. We're just saying
19 it has to be six days. Just a little caution, you know, extra
20 caution, and we heard today that that's acceptable compared to
21 not having the material because most of these materials we're
22 going to deal with are materials that are either used in
23 operations or they're supportive materials that help an animal
24 through a crisis. They're rare use materials. They're not

1 commonly used materials. They're relatively rare use.

2 MR. BANDELE: So, the initial withdrawal thing is with
3 conventional practices, right?

4 MR. SIEMON: Right. So, we're just saying double the
5 withdrawal, which is common throughout the world. Is it two or
6 three times? Two times.

7 MR. RIDDLE: And I'd just like to address that double
8 withdrawal a little bit more. First of all, as we reviewed
9 certain materials, you know, there would be an FDA restriction of
10 48 hours or whatever. That identifies that it is a material of
11 concern, that FDA has set some withhold period on it out of good
12 reasons, and we have no doubt that they have done good safety
13 review to establish that for conventional products, for
14 conventional foods, but several areas where organic goes beyond
15 other, you know, regulations, like on the EPA tolerance level,
16 100 percent of the EPA tolerance is fine for conventional food,
17 but we say if you're going to label it organic, it cannot exceed
18 5 percent.

19 It's a marketing decision, and it's consumer
20 expectation. In this instance, it doesn't produce -- it doesn't
21 result in a hardship on the producer or the veterinarian, and
22 it's consistent with international requirements. The EU requires
23 double withhold. Codex requires double withhold. So I think we
24 can establish the justification for making this recommendation,

1 both advantages for the producer, market access, and a
2 recognition that these materials have some concern.

3 CHAIRMAN CARTER: Okay. Discussion? Is this new
4 stuff, Eric? Because I'm going to try to let -- okay.

5 MR. KINDBERG: Same thing here. It would just be
6 interesting if Richard asked EPA -- I mean, FDA if that's going
7 to be acceptable because six years ago, eight years ago, and five
8 years ago, they said no.

9 MR. MATHEWS: We can only ask again.

10 DR. BASS: I just had one other question. In terms of
11 the half life of some of these materials, are you aware -- is
12 research -- has research been done in terms of how long -- I
13 understand the double withdrawal must be based -- withdrawal has
14 to be based on something, but what's the chance of some of the
15 chemicals being in the animal, the product, after use?

16 MR. SIEMON: Well, unfortunately, we didn't have the
17 impression that there was any withdrawal from this. So, in the
18 opening paragraph of your -- the TAP, it says that equipment
19 broke down internally and cleared from the bloodstream and urine.
20 So, every indication is it's such a rare use, and each of these
21 used in operations have -- there are several of them in here.
22 They have a different use and so they're not -- there's not just
23 one. The ones that are coming through are ones that have
24 different functions, and these are the ones, by the way, most of

1 these are ones that Hugh put forward a year ago that we reacted
2 to that we need to do this research on.

3 Any other comments on this one?

4 (No response)

5 MR. SIEMON: All right. The next one is Flunixin.
6 This is in '95, NOSB passed aspirin, and I think that was
7 somewhat us being quite simplistic and not realizing that most of
8 the time, what we're referring to was this -- what it's mostly
9 used is this benamine, and it is -- that's a synthetic. It is
10 used as a pain reliever and anti-inflammatory. This is your
11 classic one that Hugh was referring to earlier when the cow is
12 down and feeling very down and out that helps it get over its
13 pain enough to get on its feet and begin eating again. So, this
14 is a classic crisis, getting past the crisis it's in.

15 We recommended it to be allowed for emergency medical
16 use, when prescribed by a licensed practitioner in accordance
17 with FDA guidelines and with double withdrawal, and again, does
18 anybody remember, was there any withdrawal on this one? Anybody
19 on the committee? I can't recall. I'm sorry. We're trying to
20 get that.

21 MR. RIDDLE: Yes, four days on slaughter stock.

22 MR. SIEMON: Okay. I didn't --

23 MS. BURTON: George, I have a couple of questions for
24 you. One, are you going to go through how your committee voted

1 on these materials?

2 MR. SIEMON: That was -- I don't have that in front of
3 me, but that's what we were going to have on this piece of paper.
4 I could try to -- I could ask maybe Jim or anybody on the
5 committee remembers, but most of these, yeah. Let's see. I can
6 hear somebody here.

7 PARTICIPANT: I thought this was on the agenda
8 tomorrow.

9 MS. BURTON: Yeah. It was. At some point, it would be
10 nice to know how the committee voted on it.

11 MR. SIEMON: Yeah. We were going to write that down.

12 MS. BURTON: Okay. And then, my second question --

13 MR. SIEMON: And like on this one, there's this whole
14 question. There's a whole complicated -- all these discussions
15 about approved label use, and this is a big issue which basically
16 I don't know where to start with it. Under the guidelines that
17 veterinarians are guided by, whatever the different departments
18 are, they are able to use materials that are not necessarily
19 approved for that -- only that use.

20 PARTICIPANT: Extra label use.

21 MR. SIEMON: Yes. So, it's a very complicated
22 discussion. This is a classic one. This one's approved for
23 horses, as I understand, and yet it's used quite commonly under
24 whatever the guidelines are for dairy animals and other animals.

1 That's why we're just saying FDA guidelines. We're not saying
2 it can be used for something off label or not off label, whatever
3 those other guidelines are, and there are several other guiding
4 principles, besides just the label approval, that goes in here.
5 We're not trying to deny, you know, allow something that's not
6 allowed in some other world.

7 MS. BURTON: My other comment was, if Carolyn Berkey
8 were here, she'd now give you the old spiel about annotations
9 because if something is an FDA guideline, then it's going to be
10 an FDA guideline, and do you really need that in an annotation,
11 and in my opinion, it'd be like a CFR or something. You don't
12 necessarily need to put it in an annotation because it's assumed.

13 MR. SIEMON: It says it somewhere else in the rule
14 about the FDA guidelines.

15 MS. BURTON: Okay. So, then, I would urge you to not
16 put those in your annotations and be more concise and more
17 specific.

18 MR. SIEMON: And I agree. Okay. We were just
19 -- I don't think either of those are necessary for this one. To
20 me, the only restriction's going to be double withdrawal as far
21 as on this benimine. Yes?

22 CHAIRMAN CARTER: Owusu?

23 MR. BANDELE: George, were you saying that it's not
24 labeled for -- you're asking for use in a use that it's not

1 labeled for?

2 MR. SIEMON: Yes.

3 MR. BANDELE: Because I know like, for example, in
4 crops, for example, plants may be in the same family. You could
5 use that in collards and cabbage, you couldn't use it in mustards
6 because the mustards kind of hold it longer, and I'm wondering,
7 could you run into some of the problems when you're using drugs
8 across species, especially if it's not labeled?

9 MR. SIEMON: It's not our job to make such a
10 recommendation. That's why we're trying to say under the
11 established -- if the veterinarian was here, I'd ask him to speak
12 to this other label use. I guess I could ask Jim Pearce or --

13 CHAIRMAN CARTER: Nancy?

14 MR. SIEMON: Nancy?

15 MS. OSTIGUY: Yes. It's standard medical practice for
16 humans who enter medical practice and veterinary medicine,
17 unfortunately you could say on one level, that if a material, a
18 drug, has been approved for one use, it is used off label. The
19 physician or the vet is allowed to make that as a professional
20 judgment. So, this has been approved for horse use. It has not
21 been specifically tested in bovine. It is used in cattle
22 currently.

23 MR. SIEMON: Okay. I'll recognize Rose. I guess I'm
24 the chair here.

1 MS. KOENIG: Guidance from the committee and maybe I
2 was -- I didn't have a discussion because I'm not on the
3 committee. These are some of my concerns. This
4 -- it appears that we're looking at a brand name material. I
5 mean, we're looking at the primary components of a brand name
6 material. You look at the other -- what each actual -- you know,
7 when you get this benimine or whatever in an injectable solution,
8 it contains many things that are not on our list, like sodium
9 formaldehyde, etc., etc., but phenol as a preservative. How are
10 we wrestling with this in the committee? I mean, if you're
11 approving -- are you approving just the -- whatever it is or, you
12 know, I don't know why that trademark is in quotations, you know.
13 What are we doing, Nancy?

14 MS. OSTIGUY: What we're doing is we're approving the
15 generic.

16 MS. KOENIG: So, we're not looking at the formulation
17 of the --

18 MS. OSTIGUY: No. It's -- what's the issue we're going
19 to have to deal with in general with excipients? Because
20 Flunixin is the generic, and like other pharmaceuticals, there
21 are other things added to them, sometimes preservatives,
22 sometimes stabilizers.

23 MR. SIEMON: That's what I thought.

24 MS. OSTIGUY: Those are those excipients that we've

1 brought up before. So, no, we're not making a specific -- at
2 least I hadn't been thinking of it as approving benamine in
3 particular.

4 MS. KOENIG: Well, first of all, then I think we need
5 to remove that brand name from our application. I mean, I don't
6 -- you know, I was -- I don't think that we should be even
7 looking at an application that even has those. I mean, you can
8 put it as in your TAP in terms of how it's formulated, but we
9 shouldn't have it as our title of what we're looking at because
10 it's very misleading to both, you know, the industry and
11 producers, a person who's producing the pharmaceutical and the
12 farmers, and that is a point of clarification for the
13 veterinarian who spoke and people within the industry, that just
14 looking at the active, that doesn't mean that they can go ahead
15 and use the formulated product.

16 MR. MATHEWS: I would like to jump in here and support
17 what Rose is saying because we have the same problem as we all
18 know with pheromones. Pheromones are allowed, but as it turns
19 out, that many of them have Level 3 inerts in them as
20 preservatives, and now we're stuck in the position of saying,
21 yeah, pheromones can be used, but, oh, no, you can't use them
22 because they have Level 3 inerts, and so Rose is bringing up a
23 valid point. It's a point that needs to really be clarified as
24 to what are you really approving. Are you approving that

1 substance for use, no matter what else is mixed in with it, or
2 are you just approving that and it needs to be really clear to
3 the public that just because you approve that active ingredient
4 doesn't mean it is now available for use.

5 CHAIRMAN CARTER: Mike?

6 MR. LACY: I think that what we're approving is
7 something to relieve pain in animals, and the veterinarians have
8 indicated that this is a tool that they need in order to make
9 sure that the animal's welfare is considered. So, really, I
10 guess what -- the way I look at it, it really doesn't make any
11 difference what this has in it. I mean, we've already indicated
12 that it's a synthetic. We're only considering it from an animal
13 welfare standpoint. So, whether it's got, you know, Level 3
14 inerts in it or preservatives or whatever, it's really an animal
15 welfare thing and not necessarily the ingredients in the
16 substance.

17 CHAIRMAN CARTER: Kim?

18 MS. BURTON: Clarification, Rick, because there was a
19 Q&A that was posted that said that if a material is on the
20 national list, that it's been reviewed for its entirety, and so I
21 would say that in this case, this Board has to be comfortable
22 with what is -- what these materials are all about, and with the
23 pheromones, the annotation was for sticky traps only and that's
24 why we went back, because it did not address the entire use of

1 the pheromones. So, we're reviewing benamine or flunixin or all
2 of those for what we've got in front of us, incipients and all,
3 and incidentals and preservatives, and the whole gambit is the
4 way I would understand it.

5 CHAIRMAN CARTER: Okay. Rick, then George, then Rose.

6 MR. MATHEWS: Kim is right. Mike's right. Rose is
7 right. They're all talking different things, but they're all
8 right. I mean, it really depends on what the TAP really is
9 accomplishing. What is the TAP accomplishing? If you're looking
10 at it with consideration of all of its baggage, and you're
11 approving it in knowledge of all of the baggage, then I would say
12 you've made a choice that everything that's in there with it is
13 okay. If you're not approving it with all of its baggage, then
14 all you've done is approved one little -- it probably should be
15 an annotation to say that it hasn't been approved with all the
16 baggage and you've got to have all the baggage separately
17 approved.

18 MR. SIEMON: But that's why we want to talk about
19 excipients because the truth is, we're just getting exposed to a
20 brand name that we normally don't see, and I'm afraid that almost
21 all the substances we've pass, medication, when you got into the
22 actual end product, you're going to have this other list of
23 things. So, to me, we haven't approved anything then possibly,
24 besides for some major ingredients of some medications that may

1 not be able to be used because we haven't even known what's going
2 to be in the brand name ones because we never even looked at
3 brand names. We only looked at the active ingredients. So, to
4 me, we're going to have to deal with -- we can't pass active
5 ingredients and then not have available commercial forms of those
6 active ingredients, folks. So, I guess, Nancy, you and I are
7 supposed to work on excipients. This is crucial for all these
8 drugs to get past this barrier, and we're just getting exposed to
9 it because somebody wrote the word benimine on here. We're only
10 looking at whatever this word is, flunixin. You know, that's
11 what we're looking at right now, and these other ones are going
12 to have to be dealt with excipients or we're -- I just can't
13 imagine we're going to say no drugs because we haven't got to our
14 -- the rest of our work. I don't know how this is going to work.

15 I had two hands raised. I don't know. Emily, did you
16 get your comment made? Okay. This lady here.

17 PARTICIPANT: I guess I'm just wondering if we couldn't
18 have like a sunset clause and then also includes some commercial
19 availability language to deal with animal welfare in the short
20 term and work on the long term.

21 MR. MATHEWS: There is an automatic sunset clause under
22 the statute which says that every substance comes off the list
23 automatically after five years, and for it to be listed, it would
24 have to go through the Board as a recommendation. So, there is

1 an automatic sunset.

2 MR. SIEMON: Eric, and then I want to keep moving here.

3 MR. KINDBERG: Well, as we've said in the past, you
4 know, the animal welfare humane treatment issue is obviously, as
5 it says in the regulation, a requirement, and I don't care what
6 these veterinarians say that evidently don't know the requirement
7 very well. They have an obligation to follow the law, too, and
8 I'm saying if the animal needs to be treated, it's supposed to be
9 treated. That's the law. You can only sell it as a conventional
10 animal and that's it. You've lost your premium. If the animal
11 dies, you've really lost. So, get it together. At least you're
12 getting conventional.

13 MR. SIEMON: Blue Nixon.

14 MR. KINDBERG: Oh, on this, I don't understand this
15 because this is again part of the original statute. You know as
16 well as I do there are three categories of things on the national
17 list in the original statute. One was active synthetic
18 ingredients and had substances labeled under that and gave the
19 categories. The second part is synthetic inerts and that was
20 also to be structured for review. That means you would separate
21 out those two things. That's correct. Your active synthetic
22 substances. The synthetic inert is another application. That's
23 right. If those manufacturers want to make money, they've got to
24 submit it.

1 MR. SIEMON: They haven't. Okay. I want to move on.

2 CHAIRMAN CARTER: Let's keep moving, George.

3 MR. SIEMON: The next drug I have is
4 X-Y-L-A-Z-I-N-E. Hey, I was falling asleep during crops. So, no
5 mercy here, man. I was trying not to, but this is definitely a
6 synthetic, and again, committee, you have to help me. Is this
7 the one we did endorse once in a lifetime or I had question marks
8 by that on my document. So, I'm sorry. I don't know. This is
9 again a sedative that's used in operations, muscle relaxant, you
10 can see on the TAP thing, and again this is one that we allowed.

11 Okay. Any other committee comments before we -- I'm
12 sorry. I didn't do a very good job. I'm not that -- any other
13 comments? Okay. Rosie?

14 MS. KOENIG: I read the TAP. I don't know these
15 products, but I don't understand how a committee can approve
16 something that in the third sentence of this report, it says both
17 of them are not approved for FDA for food in food-producing
18 animals. What are we dealing with? These are livestock. We
19 cannot go over FDA's rules. We cannot supersede them. I mean,
20 this is a no-brainer.

21 MR. SIEMON: You've got to know about this, Animal
22 Medical Drug Use Clarification Act, where they give them
23 permission to go beyond FDA. I don't know about those things,
24 but again we're saying whatever the

1 -- you know, it's within the confines of the other departments of
2 the government that governs these things. I agree with you, it's
3 a challenge, but this is the way it works. I don't know.

4 Nancy, do you know?

5 CHAIRMAN CARTER: This was one where we did say once in
6 a lifetime.

7 MR. SIEMON: And DUCA. So, I -- and this one's a
8 complicated substance because there's two substances. One is
9 antidote and the other one's the active ingredient, and so they
10 looked at them.

11 CHAIRMAN CARTER: Kelly, go ahead. Thank you for
12 coming to the microphone.

13 MS. SHEA: This is Kelly Shea. Just a note, Rosie.
14 Two things. One is, when Dr. Karim had 81 vets sign on to this,
15 because they're certified to practice medicine, they're aware of
16 all the statutes surrounding these drugs, and in addition to the
17 FDA statutes, there's something called MDUCA, which is a federal
18 regulation that has to do with off-label use of drugs, and so all
19 of the medications that are proposed today are legal to be used
20 on animals, and I believe Dr. Karim also left his cell phone
21 number with the chair. So, if you have any specific questions,
22 you could call him and get them answered so that you feel
23 comfortable going forward with this or making your decisions.

24 MR. SIEMON: Anybody else? Any comments on this?

1 CHAIRMAN CARTER: Rose?

2 MS. KOENIG: I appreciate that they're available, but
3 in my opinion, you know, a TAP report should mention that
4 information. This is a problem with these TAPs. I mean, I
5 cannot in good conscience vote on this type of stuff, whether a
6 doctor tells me, I need to see it in writing. There's a lot of
7 things that I remember my father as a farmer, he applied. He was
8 not licensed, you know. There's a law and then there's what's
9 practiced, and I have to vote on what I see as a law. Show me a
10 list. If you guys can produce the list that is administered
11 through the FDA, if I can see something in writing, but I'm not
12 going to accept a phone call.

13 MR. SIEMON: I don't know where Nancy is. She seems to
14 be the one to understands or Mike? Mike?

15 MS. SHEA: George, do you have the paperwork Dr. Karim
16 sent to us?

17 MR. SIEMON: He sent us an e-mail that described what
18 it is, but I don't know if that's necessarily official either.
19 That's not any different than the phone call.

20 MR. RIDDLE: And it had the reference to the list, the
21 website where the list is.

22 MR. SIEMON: Okay. All right. Okay. We're going to
23 just keep moving on. Since there's so many of them, we're just
24 going through them here. The next one is epinephrine, and this

1 is where we get into how do we handle something that is actually
2 a natural and this one actually is a natural, even though
3 everyone out there in the countryside is going to say it's a
4 synthetic because it's a hormone. So, the committee is making an
5 unusual recommendation that we add it to the synthetic allowed
6 and just --

7 MR. RIDDLE: No. We were changing our recommendation
8 to add it to the prohibited naturals with a specific allowance
9 for emergency use.

10 MR. SIEMON: That was what we did this morning.

11 MR. RIDDLE: 604.

12 MR. SIEMON: 645 was too early for me this morning.

13 All right. So, this is an antidote or what it is, but this is
14 what is used when there's a reaction, either to a medication, and
15 it's used for bee bites as well. Allergic reactions to vaccines
16 and bee stings and that kind of thing.

17 So, this is a question. We're going to say it's
18 prohibited except for certain uses. Do we define those uses, you
19 all?

20 MR. RIDDLE: 604.

21 MR. SIEMON: Except for uses in allergic reactions.

22 MR. RIDDLE: The adaptation would be only for emergency
23 treatment of anaphylactic shock, to be used once in an animal's
24 lifetime.

1 CHAIRMAN CARTER: Rose?

2 MS. KOENIG: As I read the TAP report, you know, it
3 stated it's in the natural form, but it's synthesized. It can be
4 extracted or synthesized. Again, a question that was in the TAP
5 that I can glean information from was what was the most common
6 form, and there are two types of forms that we could choose from
7 in terms of deciding if we wanted to annotate it. In other TAP
8 reports, you know, there may have been multiple ways of how it
9 was produced, you know, listed and then we could look at those
10 forms and if we decided to approve it, we might want to choose,
11 you know, a natural extracted form rather than a synthesized form
12 because, even though it's a natural and it's synthesized, I don't
13 think we would consider it a natural.

14 MR. SIEMON: It would be a synthetic then.

15 MS. KOENIG: It's a synthetic, correct. So, again, --

16 MR. SIEMON: We're just saying the natural one is
17 prohibited, except for this use. We're not approving any
18 synthetic ones.

19 MS. KOENIG: What I'm saying is, you don't -- there may
20 -- I mean, obviously at one point, it was a natural. Drug
21 companies. There's a limit of drug companies who are producing
22 these things, and unless we know exactly what form is
23 commercially available, we may not be approving anything because
24 if you can't obtain the natural form commercially, then you're

1 in fact not approving anything.

2 MR. SIEMON: Where did you have it about the synthetic?
3 Because the TAP said non-synthetic, and --

4 MS. KOENIG: And on Page 3, Combinations.

5 MR. SIEMON: -- this is really commonly -- this is made
6 from pig adrenal glands to this day, very common. Page 3, what?

7 MS. KOENIG: Well, it just says here, is handled by
8 itself or a natural form, whether it's extracted or synthesized.
9 I assumed, and again, you know, poor TAP, I don't know how the
10 industry is making this. I see this chemical reaction, you know,
11 with phenylalanine, that to me says that in a laboratory, they
12 are probably going through those steps. I don't know. Again, I
13 mean, maybe you guys have --

14 MR. SIEMON: Scientists, help me out here.

15 MS. BURTON: I have a comment. I have a comment on
16 process because I think we're getting off track here. The
17 process was that the chairs would present the material with the
18 recommendations, and then the committee would discuss how they
19 came to that recommendation, and then tomorrow, we actually
20 discuss, debate and vote. I think we're getting sidetracked
21 personally, and I hate to say this again, but I don't know, as we
22 go through these materials, (1) I'm not hearing how the committee
23 recommended it and (2) what the actual annotation of the
24 recommendation is. So, if you're not ready, then let's go on to

1 processing and come back to these livestock materials.

2 MR. SIEMON: What was the second part?

3 CHAIRMAN CARTER: The annotations that we're
4 recommending. That's --

5 MR. SIEMON: I thought we were quite ready. So, I
6 don't have the votes with me. So, that's the only thing I don't
7 have.

8 CHAIRMAN CARTER: Okay. Well, the process was designed
9 so that we would talk about them today and get the information
10 out and Kim's recommendation is if we got the -- you know, if the
11 sheets that you need to refer to are in process, then let's move
12 on to processing and then come back to this when you have that
13 material in front of you.

14 MR. SIEMON: Okay.

15 CHAIRMAN CARTER: Is that -- when do you -- I mean, --
16 yeah. So, the question is, when will you have the revised stuff
17 done?

18 MR. SIEMON: Well, we were trying to do it by tomorrow
19 morning. That was our goal. But we've already had one copy.
20 We're just trying to refine it. I just don't have the vote with
21 me, is what I don't have. I just don't have that. So, all
22 right. Well, that's fine.

23 CHAIRMAN CARTER: Well, George, then why don't we wait
24 and we'll take up the rest of these tomorrow morning when we can

1 go through and talk about the actual annotations --

2 MR. SIEMON: Okay.

3 CHAIRMAN CARTER: -- there in the materials? So, then
4 let's move on with processing.

5 MR. KING: We can briefly discuss four of the six. I
6 mean, we have a 7:00 meeting tonight to make the decision on the
7 other two. So, I emphasize brief.

8 We'll start with tetrasodiumpyrophosphate, TSPP for
9 those of you who want to do the acronym. It was essentially
10 petitioned as a pH buffer and a doe conditioner to use in organic
11 meat alternative products. You heard testimony earlier today
12 during public input. The committee looked at it extensively.
13 The reviewers in this particular case in the TAP review, if
14 you've seen it, unanimously considered TSPP to be synthetic as
15 did the committee.

16 I think one of the reviewers, yeah, wanted to allow it
17 in both organic and made-with categories while two of them
18 prohibited TSPP in both categories. Some of the concerns that
19 came up that we discussed, and I'm not giving, you know, any more
20 weight to these categories than some of the others, but just to
21 review the process a little bit, the TAP review indicated
22 linkages to some kidney damage and renal failure and also that
23 perhaps the need to determine the biological quality of a process
24 protein in this particular case.

1 We did have a call, Kim was nice enough to help
2 coordinate this, and we had several members of the committee
3 present, where we received information, additional information to
4 the actual TAP review in this case, and some of that information
5 was brought forth earlier today in public comment and that
6 primarily is this, is that, the petition essentially was for an
7 ingredient in this particular case and that ingredient is
8 textured wheat protein, and then that ingredient, of course, is
9 mixed with the final product, in this case a meat alternative.
10 So, if you will, the final consumer product, and it's our
11 understanding that an approximate range of the percent of TSPP in
12 this final product will be somewhere around .35 percent, give or
13 take a few.

14 All right. Kevin's noting that he's found .30 to .42
15 percent. Right. So, pretty low percent and that was something
16 that wasn't clear in the TAP. So, we were able to get that
17 additional information which gave us, I think, additional light
18 in terms of what we were actually dealing with in the final
19 product.

20 You know, there are several -- and I don't have it in
21 front of me, but it was also discussed in a couple of our calls,
22 several alternatives in this case that the petitioner has
23 experimented with and that was taken into consideration when we
24 were developing our recommendation and voting.

1 Application of the criteria that you're all aware of in
2 this particular case. We felt that you can't argue in some ways
3 that this is used to, you know, improve texture, color or flavor.
4 So, that is a consideration in looking at this. We also felt in
5 some ways that TSPP is not directly compatible with the
6 principles of organic handling, but we also felt that the
7 production of the meat alternative is difficult without the use
8 of TSPP based on the information that was given to us and the
9 fact that the petitioner in this case appears to have, you know,
10 conducted extensive experiments with alternatives.

11 So, I guess (1) our recommendation in this particular
12 case, as a committee, was for Section 205.605(b), synthetics
13 allowed, and the annotation would read as follows: for use,
14 again supporting a previous decision, if you will, by the NOSB,
15 for use only in dairy foods labeled as organic or for use only in
16 agricultural products labeled as made-with organic, specified
17 ingredients or food groups. The committee voted on that, 6 to
18 approve, 1 to disapprove.

19 So, I guess in summary, anybody on the committee
20 obviously can chime in here and give your two cents' worth, but I
21 think the obvious thing here is that this recommendation would
22 support again the previous recommendation of the NOSB for the use
23 of TSPP in dairy foods while recognizing some of the
24 incompatibilities of TSPP with organic principles by prohibiting

1 it in foods labeled as organic, but then also supporting it for
2 meat alternatives in the made-with category. So, that's kind of
3 where the committee was at.

4 MS. BURTON: Comment. We went through this material
5 extensively and this is not the first time that phosphates have
6 been reviewed. It's actually the second or third time, and
7 historically, you know, it's just one of those materials that we
8 struggle with, and the committee's recommendation to put it on is
9 not a perfect solution either because, as we discussed this
10 morning, TSPP doesn't even have to be on the ingredient
11 statement. So, again, here's a material that you're putting on a
12 made-with label, although you don't really even know it's in the
13 product. So, that's just my comment.

14 MR. KING: The next one is calcium stearate, and this
15 petition was to be used as an antidusting agent, specifically in
16 enriched baking products. The petition was from the manufacturer
17 of enzymes and vitamins used to enrich certain baking products.
18 The reviewers and the committee unanimously felt that calcium
19 stearate was synthetic in this particular case. The petitioner's
20 stated use was for reducing dust in the work environment, and it
21 sort of made a case, if you will, in looking at worker safety and
22 that sort of thing while facilitating really in this case the use
23 of the enzyme through the vitamins to fortified baked goods.

24 One of the reviewers noted and the committee discussed

1 this, that this perhaps is a bit presumptuous. It assumes that
2 an organic consumer would want something that's fortified. We
3 also found, and I think that, you know, Jim had made this case
4 strongly, that there wasn't any real evidence that it actually
5 did reduce the dust. So, there was no real evidence. They
6 didn't even make a case that it was effective, in other words.
7 So, you know, that's not conclusive. I'm a little concerned
8 about that.

9 Anyway, furthering that, we looked at alternatives, of
10 course, and looking at some of the criteria and those apparently
11 -- we didn't feel at least in this case that they had been
12 thoroughly explored, and one of the reviewers also indicated that
13 as well. So, --

14 MR. SIEMON: What do you mean by criteria not explored?

15 MR. KING: Well, the criteria are the seven criteria we
16 consider, and then just, I guess, in this case, George, looking
17 at one of those being are there alternatives, and we just didn't
18 feel that was thoroughly explored.

19 Some that were brought up, and Kevin, you may know more
20 from the industry, lecithin, silicates, maltodextran. I don't
21 know if there are others to consider, but it didn't appear they
22 had explored any of those.

23 So, our recommendation in this case is for Section
24 205.605(b), synthetics allowed, and first to prohibit in the

1 organic category and then, second, to prohibit in the made-with
2 category as well. The committee vote on this was again 6 to
3 approve and 1 to disapprove.

4 MR. RIDDLE: Yes. Just a few other things that I had
5 identified in the TAP. The material itself is listed by OSHA as
6 a hazardous material and is a respiratory tract irritant. So, it
7 was questionable adding it for dust control when it's listed as
8 hazardous, and, you know, another alternative that wasn't
9 explored at all is just good dust control and proper ventilation
10 and good worker safety to prevent dust-related injuries. So,
11 those were a few other things I had identified that you didn't
12 mention.

13 MR. KING: Which, if I could just make a quick point
14 and then Kim, you know, we're not really prepared to talk about
15 these today. These are totally in draft form. In other words,
16 the committee hasn't even looked at this. They understand the
17 vote, obviously, and didn't vote for them.

18 MS. BURTON: The other comment. We went around and
19 around about the actual fortification of flower and bread and all
20 that, and we came up with the organic twinkie syndrome. Again,
21 you know, to have to highly refine something to where, you know,
22 you take out the nutrients and then you have to add them back in
23 and then have a processing aid to complete with that, we just
24 didn't feel was compatible with the principles of organic and

1 there were alternatives.

2 MR. SIEMON: What's the alternative? Lecithin?

3 MS. BURTON: Lecithin.

4 MR. SIEMON: I don't get that, that it's proven that
5 it's --

6 MS. BURTON: The other thing was -- my other comment
7 was that we've not had any public input on this material nor any
8 letters or support or anything. So, again, you know, it doesn't
9 show that they've tested the alternatives nor shown interest to
10 do anything about it.

11 MR. MATHEWS: I would caution the Board that from my
12 almost 27 years of experience in the Department of Agriculture,
13 the lack of support for something doesn't necessarily mean there
14 isn't support out there for it. My rulemaking experience has
15 shown that the only people who comment are the ones who don't
16 like it. Rarely do you get comments from people who do like it.

17 CHAIRMAN CARTER: Other comments?

18 (No response)

19 CHAIRMAN CARTER: Okay. Mark, continue.

20 Next up, gluconodeltalactone or GDL. This petition to add to the
21 national list was for a tofu coagulant, specifically to make
22 silken tofu. What we found through the TAP is that it's produced
23 two ways. One, naturally through fermentation, and then
24 secondly, synthetically. The petitioner in this case has stated

1 that the GDL in question or petitioned in this case is produced
2 through fermentation. So, that's what was considered in the vote
3 and by this committee.

4 Essentially, what we found is that when it's used in
5 silken tofu, it's at a level of approximately .4 percent. It's
6 considered -- in reading the data, we found that it was
7 considered to be the coagulant of choice. There was some
8 question in looking at if this would improve, you know, taste,
9 color, texture, so on and so forth. I think in this case, it is
10 apparent that it does add to the texture of silken tofu. So,
11 that is one of the things we're talking about and that needs to
12 be, you know, a point that needs to be raised.

13 One of the things I learned through this process is,
14 and Kevin, perhaps you could give us the scientific background on
15 this, is that essentially GDL produces this gradual acidification
16 and that's what --

17 MR. O'RELL: Yeah. GDL is very unique as an acidulant,
18 unlike acids like phosphoric acid or hydrochloric acid, where you
19 add it to milk or, in this case, substance to coagulate the soy
20 protein. It doesn't acidify in one shot. It gradually
21 hydrolyses in an aqueous medium and gives off a slow
22 acidification and does give unique textures in the way that it
23 does tend to coagulate proteins.

24 MR. KING: Which I think ties in to what we found in

1 that really the reasoning or the justification in this case as to
2 why it's kind of the coagulant of choice for silken --

3 MR. O'RELL: Right.

4 MR. KING: -- tofu. There was some mention made on
5 several occasions actually in the TAP review in looking at
6 natural alternatives, one was lemon juice, another was vinegar.
7 In reading the information and looking at the application or, I
8 guess, the manufacturer, if you will, of tofu for the marketplace
9 distributed to retailers and perhaps not made as a home recipe or
10 things of that nature, it appeared that these may not actually be
11 viable alternatives.

12 As with many things we deal with, not just in this
13 committee but as a Board, you'd love to see some research on
14 that, to see if it can indeed be applied at the commercial level,
15 but that was not something we were able to find out either
16 through our own research or the TAP review. One of the things
17 that was noted is that perhaps these alternatives, lemon juice,
18 vinegar, things of the like, could produce a bitter taste,
19 depending on how successful you were through that process.

20 Many of the reviewers stated, again distinguishing
21 between fermentation and the synthetically-produced GDL, that
22 there was a strong argument for the use of GDL produced from
23 fermentation of carbohydrate substances in organic production.
24 There was not as much support for the synthetic version. The

1 committee felt that this -- well, we felt similar in reviewing
2 that, and so our recommendation in this case is to -- for
3 205.605(a), non-synthetics allowed, which would be GDL in the
4 following annotation produced by microbial fermentation of
5 carbohydrate substances, and I think it was Kim who brought it up
6 in the call. There's another material, and I can't recall off
7 the top of my head on the national list, it has a similar --

8 MS. BURTON: Citric acid, I believe.

9 PARTICIPANT: Calcium sulphate?

10 MS. BURTON: No. It had a similar annotation.

11 PARTICIPANT: Oh, a similar annotation.

12 MR. KING: Yes.

13 PARTICIPANT: Yeah. Okay. Yeah.

14 MR. KING: Yeah. So, this would be consistent in
15 looking at what had been done in the past, too. The committee
16 voted 7 to approve and zero to disapprove in this case.

17 MS. BURTON: Just one comment on the TAP review. There
18 actually were two reviewers that recommended it be allowed and
19 one prohibited and the TAP review says one allowed and one
20 prohibit. So, as you guys are going through that, you might want
21 to note that on the front page.

22 MR. SIEMON: Two allowed, one prohibited.

23 MS. BURTON: Yeah. And we also called the petitioner
24 and confirmed that their manufacturing process was from microbial

1 fermentation. So, it is commercially available. There was some
2 question in the TAP whether or not it was commercially available
3 and we confirmed that it was.

4 CHAIRMAN CARTER: Okay. Jim?

5 MR. RIDDLE: Yeah. It's just also my understanding
6 that the consumer label would show this ingredient. So, the
7 consumer would have knowledge? No?

8 MR. KING: No. No.

9 MR. SIEMON: Would it say enzymes or what would it say?

10 MR. KING: This -- well, --

11 MS. BURTON: It's a processing --

12 MR. KING: -- it's a processing aid. So, you wouldn't
13 list it on the -- there are certain products are required by law
14 where if you use the acidulant, you couldn't call -- like cottage
15 cheese. If you made cottage cheese with GDL, you couldn't call
16 it cultured cottage cheese, you'd have to call it cottage cheese
17 directly set, but you don't have to necessarily label the
18 acidulant because it is a processing aid.

19 MS. BURTON: It has to meet the CFR definition of a
20 processing aid to not be on the label. So, whether or not this
21 does or doesn't, you know, I guess it depends on the application.

22 MR. O'RELL: It depends on the application and the
23 company's interpretation of how liberal they want to get with the
24 definition of processing aid.

1 CHAIRMAN CARTER: Okay.

2 MR. KING: The fourth and really the last material
3 we've made a decision on at this point, final decision, if you
4 will, is hydroxypropylmethylcellulose, HPMC, and essentially the
5 petitioned use in this case is for an ingredient of hard
6 capsules. As it relates to the organic industry, the effects
7 seem to be in the examples given primarily for encapsulating
8 things like powdered herbs.

9 This one was interesting, as they all are, but what I
10 learned through this is that HPMC's considered to be part of a
11 group of compounds known as cellulose ethers, ethers, I guess I
12 should say, and you can chime in when we get to the science part,
13 Kevin. Various reaction products with methylchloride are known
14 as methyl-celluloses. This group includes HPMC. HPMC, we found,
15 was on the List 4-B which is inert which have sufficient data to
16 substantiate their safe use as pesticides or in pesticide
17 products.

18 However, methylchloride is considered hazardous and is
19 highly flammable. It's also considered an ozone-depleting
20 substance. It has less effect than most or other ozone-depleting
21 compounds that we found in this case, and what was stated in the
22 TAP is that it's not thought to be a significant contributor to
23 global warming. So, just trying to give you some background on
24 where this one's at.

1 It is an approved food additive, and it's used to make
2 hard capsules. One of the things that was looked at here is that
3 gelatin poses certain challenges. Specifically in this case, it
4 can react with the herbs or, you know, I guess the pharmaceutical
5 in question, nutraceutical, whatever you want to call it, and as
6 I understand it, it's specifically for things that are considered
7 to be water unstable, thus the need for hard capsules in this
8 case, dry environment.

9 It was brought up in the TAP and certainly discussed as
10 with all animal products -- well, you know, we, of course,
11 considered the vegetarian issues. You know, it's not one of the
12 criteria but it did come up as those people tend to support the
13 organic industry quite extensively. We found in looking at
14 alternatives and Jim brought this point up, and I don't know some
15 of the details of how the industry would deal with this as a
16 delivery mechanism, and I refer to the industry really in this
17 case, that being the organic bulk herb industry, is to look at
18 selling something in bulk powdered form, tincture form, things of
19 that nature. I don't know how viable that is for every
20 application, but we did discuss that.

21 They can be challenging not just for the producer but
22 really in just looking at it from a consumer perspective, too.
23 We discussed that. Is it a desirable product? Is it something
24 they would purchase? How much education would be needed at the

1 retail level, so on and so forth? The reviewers in this case
2 felt that, you know, and this is probably of no surprise to
3 anyone here, that HPMC didn't really meet the environmental
4 criteria for organic production.

5 The reviewers also found no alternatives for HPMC for
6 the production of hard capsules. So, you know, herein lies the
7 issue. We, of course, you know, we recognized the hazardous
8 status of methylchloride in the manufacturing of HPMC and
9 consequently chose to prohibit the use of HPMC in the organic
10 category. The reviewers, the committee, people involved in the
11 discussion, all agreed that there weren't really any viable
12 alternatives that we found for the manufacture of hard capsules.
13 In other words, a capsule that would be suitable to deliver in
14 this case, you know, a dry organic herbal supplement.

15 So, in light of this, we looked at it and we offered
16 the following recommendation, which would be for Section
17 205.605(b), synthetic allowed, made with organic only with the
18 following annotation, only for hard capsule application. The
19 vote in this case was 6 to approve and 1 to disapprove.

20 CHAIRMAN CARTER: Jim?

21 MR. RIDDLE: I was that one vote against and mainly
22 because of the use of hazardous toxic chemicals in the
23 manufacture, and it's a highly chemically modified product. So,
24 I just didn't see its necessity here and I did think that there

1 were alternatives just for bulk powdered herbs or use of soft gel
2 caps or liquid tinctures. I don't think that its use is
3 essential. So, I did oppose this but mainly because of the
4 manufacturing process is highly toxic.

5 CHAIRMAN CARTER: Other discussion?

6 (No response)

7 CHAIRMAN CARTER: All right. Does that complete your -
8 -

9 MR. KING: That's all we know right now.

10 CHAIRMAN CARTER: Okay. Then that brings us to the end
11 of the discussion of materials for today.

12 What I want to do is mention at the beginning of the
13 meeting this morning, then if we could go through and have each
14 of the committee chairs talk about their work plans and where
15 they're at with that, so we could get that into the record, and
16 we'll start off with accreditation.

17 MR. RIDDLE: All right. Well, the committee report is
18 submitted in writing, and it was distributed in your piles, so
19 I'm sure you've all got it to the top of your stacks by now, and
20 I'll move through it pretty quickly. It's based on the work plan
21 that we submitted at the May meeting. So, I'll just report on
22 each of the items in that work plan, and the first item on our
23 work plan was to take a break and we successfully accomplished
24 that as far as Accreditation Committee but not in terms of

1 committee members on other committees because we've been totally
2 overwhelmed with the TAP reviews and recommendations on the other
3 committees that we serve.

4 The second item, review NOP Accreditation Program,
5 functioning as an interim peer review panel. We did receive
6 blank accreditation documents from the Audit Review Branch in
7 July, and we've begun review of those documents, but it wasn't
8 going to be an agenda item or an action item on this meeting in
9 September and so that was deferred any further work because of
10 our workload on TAP reviews.

11 And to the best of my knowledge from the last Executive
12 Committee call, there's been no progress yet as far as the
13 beginning paperwork for the Federal Advisory Committee request
14 for a permanent peer review panel to be put in motion, and I
15 don't see anything happening there probably till after October
16 21st at any rate.

17 On the Grower Group Certification Criteria, that is
18 posted for public comment through September 20th, and we have
19 received some comments. I did attend a workshop on the subject
20 at the IFOM World Congress and solicited for comments from
21 international partners and report is contained as an addendum to
22 this committee report on the IFOM meetings. Once the deadline
23 has passed, the Accreditation Committee will be meeting and
24 reviewing the comments that we received and redrafting our

1 recommendation and presenting it for a vote at the October
2 meeting.

3 On NOP enforcement, plans and procedures, the committee
4 has really not done any work on that. We would like to meet with
5 personnel or have a presentation from the AMS Compliance Division
6 to better understand the division's enforcement plans and this is
7 especially an issue for certifiers, state programs, inspectors,
8 to know exactly what the enforcement mechanisms are going to be
9 in terms of turning over a file for Compliance Division
10 enforcement actions, just exactly what they need to have coming
11 in from states and from certifiers to take effective enforcement
12 action, especially if there's fraud or the need for the statutory
13 fine to be levied.

14 On the ISO-65 and rule, NOP accreditation requirements,
15 we have had communication back and forth with Jim Reva at ARC on
16 this issue, and he has proposed a meeting between the ARC, NOP,
17 NOSB, and representatives of some of the affected certifying
18 agents to begin discussions on how to resolve some of these
19 differences, and he did send a summary of some of those
20 differences that I have attached as Addendum B to this report,
21 and you know, if we're -- if the goal of the program is not
22 necessarily to resolve the differences but, as Keith said this
23 morning, to clarify how the NOP meets the objectives of ISO-65, I
24 think the committee would be happy to have input or help out with

1 that because clearly they aren't identical but it's a different
2 framework of whether the NOP does indeed meet all of the
3 objectives.

4 On the NOP complaint procedures, as we discussed at the
5 May meeting, we did draft some complaint procedure language and
6 submit it to the NOP on May 12th. So, there was follow-through
7 on that, and the intent of that is to provide some instructions
8 on the website where the list of accredited certifiers is posted
9 to inform members of the public, if they have any complaints or
10 concerns about any of the accredited certifying agents, exactly
11 how to submit those and then what procedures would be followed in
12 terms of investigation or following up on the complaints. So, we
13 did take action there.

14 On Item 7, continue to monitor certifier issues, one of
15 the questions posed in the work plan was, is the 120 days
16 sufficient time for making organizational changes as required by
17 certifying agents and to gather further information in July, I
18 sent out a survey to certifying agents and state programs and
19 that's submitted as Addendum D to this report. The survey
20 revealed a lack of communication, and we heard comments about
21 that again today, between the certifying agents and the NOP, and
22 the survey contains a number of suggestions to improve the
23 system, and I think that's really the focus, are some of the
24 suggestions to really make this work better, the communication

1 out to certifying agents and states, and one of the probably most
2 positive developments that's kind of new news is that the Organic
3 Certifiers Council of OTA has now posted a job announcement for a
4 standards interpretation project coordinator and that's attached
5 as Addendum D, and that coordinator would seek consensus amongst
6 all accredited certifying agents on interpretation issues and
7 then can present one unified interpretation position either to
8 the NOP or to the Board but certainly to communicate them out
9 amongst the certifiers.

10 And the second item under that certifier issue was
11 about workable structures for the conflict of interest issue.
12 There still haven't been any workable organizational structures
13 posted for how to avoid conflict of interest by responsibly-
14 connected parties and that has remained a condition for a number
15 of certifiers and we'd still like to see some workable structures
16 posted, and then the final item, continuing to monitor the
17 website and that's just an on-going part of the work plan of the
18 committee.

19 Any questions or comments?

20 MR. MATHEWS: Oh, yeah. I've got some comments.

21 CHAIRMAN CARTER: Richard?

22 MR. MATHEWS: My first comment is I wont' comment on
23 most of it, but I must comment on the certifying agent survey.
24 Number 1. If I were to send out this particular survey, I should

1 be fired. Number 2. If I sent out this particular survey, I
2 would have had to have had it approved within the Department and
3 OMB. Okay. As an appointed Board, you also would have had to
4 have had this survey approved by the Department and by OMB.

5 Now, I'd like to address the reason why I would be
6 fired for submitting this survey. First of all, the survey
7 purports to be a certifying agent's survey and I'll quote from
8 the survey. During the month of July 2002, I submitted a series
9 of questions to members of the OTA's Organic Certifiers Council
10 and to members of the National Association of State Organic
11 Programs. This thing goes on to make recommendations to NOP as
12 to how to improve their program.

13 Let me point out that in my opinion, the two lists of
14 recipients is inappropriate. If I was conducting this survey and
15 not wanting to be fired, I would have sent this survey to the 115
16 applicants for accreditation because, quite frankly, folks, the
17 115 applicants for accreditation are the certifying agents that I
18 am serving. I'd also have to point out that four state
19 certifiers responded and four private certifiers responded. That
20 is a 6.9 percent return rate on the true population to be
21 surveyed.

22 Now, I want to go on to point out a few other things.
23 Out of this 6.9 percent response rate, this is the non-response
24 rate to individual questions, 20 percent, 40 percent, 60 percent,

1 60 percent, 40 percent, 30 percent, 60 percent, 70 percent, 50
2 percent, 20 percent, 40 percent, 40 percent. How is that a
3 representative survey, and how am I supposed to derive any true
4 value from a survey such as that?

5 Now, let me tell you what it did tell me. See the back
6 of this paper? That's your confidentiality. I know the names of
7 everybody. A little bit of research. Actually I showed you the
8 back of the wrong piece. I know the names of everybody in this
9 confidential survey. I'll tell you the piece of information
10 that's really of value to me, Certifier G. Yes, I think I have
11 had clear guidance. I've just been ignoring it. That's going to
12 be of interest to the auditors. This kind of work product is not
13 what I expect from the NOSB.

14 CHAIRMAN CARTER: Okay. And I'm not going to allow
15 discussion on this to continue, other than to say that this issue
16 was discussed at the Executive Committee on August 13th, and let
17 me read you the action that was taken, was that, George Siemon
18 made a motion that all written surveys, including electronic
19 surveys, that are distributed in the name of any NOSB committee
20 must be approved by the NOSB Executive Committee prior to the
21 distribution and that a written report summarizing the results of
22 the survey be submitted to the full Board and the NOP as soon as
23 possible after completion.

24 Jim Burton seconded, said motion. Jim Little noted

1 that the attachment should be listed on the next full board
2 meeting agenda and should be included in the Board policy manual.
3 Following further discussion, motion was put to a vote and
4 carried.

5 The issue here on this, and I don't want to get
6 sidetracked, but the whole issue on this type of survey or the
7 like comes down to, and I'm very sensitive because when this
8 whole issue became to my attention, I had just gotten off the
9 phone earlier in the day with someone in the audience here who
10 was chastising very strongly that folks in the NOSB come to the
11 meetings with very narrow resource base or having looked at it
12 with their own biases and not looking at their constituent
13 groups, and each of us on this Board is a fiduciary in part for a
14 larger constituent group on consumer, farmer, environmentalist,
15 whatever.

16 So, it's a constant balancing act of how do we as board
17 members go and sort of plum the pulse of that constituent group
18 that we're bringing to the Board, and what's the proper process
19 to do that? As an individual, I will go out there and talk with
20 folks and try and bring that forward. When we have something
21 that's done in the name of the Board or in the name of a
22 committee, then what we've tried to address then is that there be
23 a specific process for bringing that forward, and so I want to
24 move forward from this particular thing but to talk about in the

1 good faith effort of trying to go out and find some of the
2 issues, be it on certification, accreditation or on materials or
3 whatnot, how we have this procedure to come forward.

4 So, with that, we're going to move on from this.
5 Rose?

6 MS. KOENIG: I think we have -- when we have public
7 comment, isn't that the process upon which we receive that input?

8 CHAIRMAN CARTER: That is one of the tools that we use
9 to receive that info. Yeah. But I think that there's an
10 expectation, too, that each of us, you know, our responsibility
11 as board members to go out there and bring forward the
12 information does not end when we adjourn the meeting. So, okay.

13 Let's move on.

14 MR. BANDELE: I thought that, correct me if I'm wrong,
15 but I thought the motion had been amended to say the approval of
16 the committee and not the Executive Council.

17 CHAIRMAN CARTER: The way that it's here and was
18 approved was that it was as I read it. So.

19 MR. SIEMON: Was it from the originating committee?

20 CHAIRMAN CARTER: Yeah.

21 MR. SIEMON: I think that was -- it came from --

22 CHAIRMAN CARTER: From the committee.

23 MR. SIEMON: -- the committee to the Executive
24 Committee for approval.

1 CHAIRMAN CARTER: Yeah.

2 MR. RIDDLE: And in this particular instance, it was
3 sent in to the committee members asking for any objections or any
4 input. Hearing none, then it went out, but it really was just
5 like Dave said, trying to -- I'd heard a few concerns, and is
6 this a larger issue and just trying to get, you know, the
7 sentiments of the sector that I represent.

8 MR. BANDELE: I really thought I had made -- I had
9 offered an amendment to that, that I really thought that the
10 discussion that revolved around approval by the committee --

11 MR. RIDDLE: Well, it comes forward. It says from the
12 committee, okay, that a motion that surveys, including electronic
13 surveys, that are distributed in the name of any NOSB committee
14 must be approved by the NOSB Executive Committee. So, it's
15 talking about it comes from the committee to the Executive
16 Committee. That's how I interpret that.

17 PARTICIPANT: Because we talked about the fact that it
18 could not go to the full Board. It would be totally --

19 PARTICIPANT: That's why this needs to be approved by
20 the full Board, and we can amend it when it comes up in October.

21 MR. SIEMON: But we also in our discussions said that
22 the NOP participates in the Executive Board, so that they would
23 be also in on all -- what's going on. I think the legal concerns
24 are a big issue here.

1 CHAIRMAN CARTER: I don't want to get bogged down, but
2 this is an issue that will come up in October. The point is, in
3 trying to -- and I know that, you know, Rick has noted that there
4 were some issues that came forward with this and some
5 difficulties for the NOP, and I think the whole process here and
6 the intent of all the NOSB members is to try and provide
7 information, guidance and whatever, and so I don't want to get
8 mired down in the conflict that arose from this.

9 With that, I'm going to move on then to the report of
10 the Materials Committee.

11 Joe, you haven't had a comment? Okay. Go ahead. You
12 behaved yourself today. So, I'm giving you a special
13 dispensation.

14 MR. SMILLIE: Thank you. I appreciate it.

15 CHAIRMAN CARTER: That's enough.

16 MR. SMILLIE: I just want to be really clear.

17 CHAIRMAN CARTER: Thank you for that comment.

18 MR. SMILLIE: I just want to be really clear on the
19 accreditation issues. The National Agreement Program
20 Accreditation and the ISO-65. We are being given a great -- a
21 certifier community is being given a great service by the USDA,
22 FSIS. I just want to reiterate what Keith Jones said this
23 morning very clearly. There are two different programs. They
24 have two different purposes. They are voluntary. You don't have

1 to seek ISO-65, but they've just saved our butts, and the farms
2 that ship to Europe, they've saved them another embargo by acting
3 quickly based on the ISO-65. So, this perceived problem about,
4 you know, merging the two programs is inaccurate and, I think, a
5 misconception. I think it's very important that we keep both of
6 those programs until all issues on equivalency, etc., are
7 resolved which is not the foreseeable future. So, I just want to
8 reiterate what Keith said this morning, that those are like key
9 programs that really benefit the certifier community, especially
10 those certifiers who wish to take advantage of them and are not
11 forced to.

12 CHAIRMAN CARTER: Okay. And for the record, that was
13 Joe Smillie.

14 So, okay, just a quick comment on that, then we're
15 going to move on to Materials because these are supposed to be
16 reports of work plans, and if there's discussion with the work
17 plans, you need to take those up with the appropriate committee
18 chair who is conducting those work plans as we go forward.

19 MS. BURTON: Okay. Materials Committee, obviously a
20 majority of our work has been materials, and thus we haven't had
21 a lot of action items or recommendations specifically that we've
22 had to deal with it, other than keeping the TAP review process
23 going.

24 However, that being said, we do have to start looking

1 at the rereview five-year process now that October's right around
2 the corner. We will come up with some type of recommendation by
3 October. We'll discuss it and try to start at least putting that
4 on our task force work plan. Again, it's a fine line on TAP
5 money and this whole issue, but we'll try to deal with that as
6 best we can.

7 The other one, and I don't want to be the only one to
8 discuss this because it's certainly an NOP issue that's come up,
9 and that is, this whole material task force, and it's been clear
10 from the comments today and it's clear on the confusion on what
11 needs to be petitioned and what doesn't need to be petitioned and
12 what needs to be reviewed, that somehow we have to draw the line
13 on material review, and we will be forming a task force, and I
14 don't know if we're going to be officially forming it at this
15 meeting, I would hope that we are, so that we can get a group of
16 people together so that we can at least start identifying that
17 line, so that we don't come to these meetings and say that should
18 have never been reviewed or that should have never had a TAP or I
19 didn't know I needed to submit a petition. So, we'll try to at
20 least give some guidance on that, and I believe that there's been
21 discussion of having on that task force EPA, obviously the NOSB
22 Materials, Processing chair because a lot of the materials right
23 now are processing materials, and then a past board member so
24 that we can get some historical knowledge on past decisions and

1 the intent of the rule.

2 CHAIRMAN CARTER: Come forward, if you're going to say
3 anything. Is it just a quick question that I can repeat?

4 PARTICIPANT: So, I have this joke, you know. Can you
5 explain? You said it's a work plan on the five-year rereview of
6 all the materials. Can we get some clarification on when the
7 five years started? Did they all start October 21st?

8 MS. BURTON: It should start October 21st.

9 MR. MATHEWS: Works for me.

10 CHAIRMAN CARTER: Rose?

11 MS. BURTON: A clarification, and I expressed it in an
12 e-mail on a couple issues that I didn't see on the work plan, and
13 that was, is there going to be a separate -- in the process of
14 working on this paper, I talked a lot to EPA about the labeling
15 program, and there was a lot of issues that came up as far as
16 where they're going from here. So, was that going to be a
17 separate task force or do you see that as part of this whole
18 Materials Task Force because it's pretty specific? The reason
19 why I say it is because I heard you say EPA and I was like okay.

20 CHAIRMAN CARTER: I would see it because this task
21 force is fairly new, and we've really not discussed it in length,
22 I would see it as a separate issue. The task force, I would
23 assume at this point, is going to be focused on processing
24 materials because that seems to be the largest area of question

1 and the materials would then deal with the EPA separately.

2 MS. KOENIG: So, you were talking like sort of what the
3 gentleman from the legal area was talking about this morning?

4 MS. BURTON: Correct. Right. And hopefully the
5 Processing Committee can come forward with at least some
6 direction at this meeting.

7 MS. KOENIG: So, then, I guess the question is, where -
8 - because I had written this in the e-mail. There was a couple
9 of -- the issue that came up in terms of that EPA program, I
10 mean, it's been just in limbo. Carolyn brought in EPA back in
11 Washington to explain that. In my communications to them this
12 past month, they're kind of limbo waiting. You know, I've heard
13 people say they're waiting for NOSB to do something and waiting
14 for NOP to do something, and it was obvious to me that it's in
15 limbo because there needs to be some kind of communication or
16 recommendation. I had suggested kind of a task force to deal
17 with that labeling issue to move it forward. If people feel like
18 it's a worthwhile endeavor, I mean, there's no mandate to say
19 that we even have to do this. This was just something I think
20 that Carolyn had started.

21 MS. BURTON: And she has a contact at EPA along with
22 Emily that we were -- you as a Materials Committee member with
23 EPA, with Emily. So, yeah, we can put that on our task force
24 agenda, and we can discuss it off line and come up with some

1 recommendations for the next meeting.

2 CHAIRMAN CARTER: And we will get to this issue of the
3 task force, too. It's covered under the heading of "Other
4 Business" on Thursday.

5 So, okay, Processing Committee.

6 MR. LACY: I'm going to start with a couple of things
7 that have sort of actually already been accomplished, but I've
8 asked Rick to speak to them briefly, if you will. Two things.
9 One is calculation of percent organic and then, secondly, USDA
10 seal. There's been a lot of discussion about these two issues in
11 the past few months, and they're both posted on the web now.

12 MR. MATHEWS: I don't really know what you want me to
13 say about them, other than the fact --

14 MR. LACY: Okay. Next item.

15 MR. MATHEWS: Other than the fact that those are two
16 issues that have recently gone up on to the website. I think the
17 issue of the seal had a lot to do with what do we mean by
18 transparent and that is fully described up there. The one thing
19 that we have not done is that there are people who want to have,
20 I guess, purple and pink seals and orange and turquoise seals and
21 we have not allowed that. We basically said that the seal colors
22 are as they are published, but we did do a clarification on what
23 transparency means, and I encourage you to go to the website and
24 read both of those items.

1 We've also, as of last Thursday, put up on the website
2 what we mean by stream of commerce and that's an important one
3 for you to read.

4 MR. LACY: Other things on the work plan right now, you
5 know, one which may be a moot point, we'll find out later after
6 the work of the task force and some comments that were made here
7 today, is the draft document that was created some time ago by
8 former members of the NOSB concerning technologies that the NOSB
9 might review.

10 Another which we've had little progress on, which is
11 primarily because I haven't had time to deal with it, but we will
12 be providing a recommendation or a guidance document in this
13 particular case concerning on-farm processing hopefully at the
14 October meeting, and that's really about it, aside from
15 materials.

16 CHAIRMAN CARTER: Next time, Mark, try and curb the
17 enthusiasm from your voice on that.

18 MR. LACY: Sorry.

19 PARTICIPANT: Mark needs more coffee.

20 MR. LACY: I need just one up.

21 CHAIRMAN CARTER: Okay. Crops? Oh, right. Was there
22 a question? I'm sorry. Was there a question on -- oh, okay.
23 I'm sorry. Emily?

24 MS. BROWN-ROSEN: There was a recommendation posted in

1 the meeting book at the May meeting about the recommendation that
2 the Processing Committee made last May, but it was never posted
3 for comments. So, is that still on a work plan? Is it going to
4 be posted for comments? Where does it stand?

5 CHAIRMAN CARTER: Okay. The question from Emily was on
6 the .605 recommendation that was --

7 MR. LACY: I don't believe, and let me double check my
8 list here, enthusiastically, I don't -- we've had discussion
9 about it, and I don't -- I'll have to walk the talk later, Emily.

10 MS. CAUGHLAN: It was voted on by the Board. It should
11 be posted for comments.

12 CHAIRMAN CARTER: Thank you, Arthur. Come to the mike,
13 yes, as Emily did not do.

14 MR. NEAL: Arthur Neal, National Organic Program. That
15 recommendation is found in the Minutes or the Summary of the
16 Minutes. That was in October, right? That was May? Was this
17 not the --

18 MR. LACY: This is September. It's included. Whether
19 or not the materials in .606 should be moved to .605.

20 MR. NEAL: Okay. No, it is not posted on the website.

21 MS. BROWN-ROSEN: Basically, we didn't want to create a
22 commercial availability list under .606 and that was what was
23 happening with the two.

24 MR. NEAL: Right. No, it's not on the website.

1 MS. BROWN-ROSEN: It is on the website. I mean, I
2 don't know where it is, but it is there. Then, Mark, we should
3 probably recommend that it get posted for public comment.

4 MR. LACY: Well, Emily says we do have it up there.

5 MS. BROWN-ROSEN: But it's under public comment. Well,
6 I'm not on line right now, but I'll find it for you. But it's
7 under the meeting program section.

8 MR. LACY: Yeah. It's included in the Minutes,
9 Proposed Change to Section 205.606. It's not real clear what its
10 status was.

11 CHAIRMAN CARTER: Yeah. It's not. Draft 5.

12 MR. LACY: Draft 5. I thought we voted on it. We
13 voted on that.

14 CHAIRMAN CARTER: Katherine says it's posted.

15 MS. BROWN-ROSEN: But I'm saying it needs to be clearly
16 identified as comments.

17 CHAIRMAN CARTER: On the NOSB site.

18 CHAIRMAN CARTER: Katherine says it's posted, and I've
19 learned not to question Katherine. Okay.

20 Crops? Yeah. Now come forward with Crops.

21 MR. BANDELE: On TAP, not TAP review. Completion of
22 the practice standards document for composting, I've got to touch
23 base with Eric again on that. I do foresee some further
24 discussion on the composting issue, notwithstanding the comments

1 this morning. Also, I got the document for hydroponics. I think
2 in the October agenda, it had hydroponic plants, but those are
3 two separate issues. One is on the hydroponics. We've agreed to
4 take upon the -- some clarification in terms of our take on what
5 would be a sustainable system of hydroponics. There's a lot of
6 discussion on that, and finally, in light of the approval of
7 strawberries as an annual, we also agreed to come forth with a
8 planting stock guidance document which would include sweet
9 potatoes and some of the other planting stock.

10 Along with the -- and also, we have a hefty material
11 review coming up in October, and more immediately, Rose's draft
12 on the directive as was discussed earlier.

13 CHAIRMAN CARTER: Okay. Rose, first, and then Rick.

14 MS. KOENIG: I guess to add to that, I would like to --
15 since I volunteered, and I'm on the Crops Committee, it sounds
16 like the logical place for it would be the research guidance on
17 that research issue that we discussed.

18 MR. BANDELE: That's what I mentioned, the directive.
19 That was the last thing I --

20 MS. KOENIG: Oh, I thought you were talking about the
21 other directive.

22 MR. BANDELE: Same thing.

23 MS. KOENIG: Okay.

24 CHAIRMAN CARTER: All right. Rick?

1 MR. MATHEWS: Yes. The -- Owusu's got even more work
2 that's probably coming down the road, and the reason why I say
3 that is on Monday, I met with the Biopesticide Industry Alliance,
4 and they have a number, actually a substantial number, of
5 biopesticides that use List 3 inerts, and they've decided they've
6 got a problem, and so they're going to be petitioning an awful
7 lot of List 3 inerts. They walked out of our office with the
8 procedures for doing just that. So, you can find out little
9 more materials review for crops.

10 CHAIRMAN CARTER: Rose?

11 MS. KOENIG: With that in mind, again, you know, again
12 maybe it's this EPA Task Force, where does -- has anybody in the
13 NOP office been keeping track of where EPA is on List 3 inerts as
14 far as are they being reclassified? I know Emily has been doing
15 some discussion with the EPA on that, but where does that stand?
16 Because it seems like again, you know, back to the Materials
17 Task Force now, you know, how are we going to deal with this?

18 CHAIRMAN CARTER: Rick?

19 MR. MATHEWS: Last we heard was that they were looking
20 to do something as far as moving a number of them from List 3 to
21 List 4. We haven't actually heard anything on that.

22 Emily, anything new with them from your side of it?

23 CHAIRMAN CARTER: Thank you for coming to the mike.

24 MS. BROWN-ROSEN: We have been going back and forth a

1 few times with EPA and recently talked to Carrie Lifer. Our
2 understanding is they just had a big deadline August -- well,
3 it's not just. It's already a month ago, that they had to
4 publish/rereview a whole lot of materials to meet FQPA on food
5 tolerances. But they haven't published a Notice yet, and it's
6 very difficult to a certain -- you know, which of the specific
7 inerts that we were concerned about did or did not get reviewed.
8 Now, we've gotten like two or three letters so far about
9 specific inerts that have been moved, and we're going to be
10 making, you know, readjusting those products that were on our
11 list that were taken off.

12 So, we're having another meeting in a couple of weeks
13 to try and get specific answers to all the other ones that we'd
14 asked about. So, you know, the answer is some progress, not
15 enough, and we'll find out more soon, we hope.

16 MR. MATHEWS: Do we know how many of the List 3s that
17 are of concern to organic producers are going to be in that
18 Notice?

19 MS. BROWN-ROSEN: They are going to operate by sending
20 letters to the manufacturers for the time being. I have no idea
21 when they'll get around to the Notice. So, it'll be sort of a
22 product-by-product review, and we only know about the ones that
23 have gone through our process. So, there's probably, you know,
24 numerous others that are not necessarily affected, but there may

1 be additional ones that aren't covered by our process that they
2 have also adjusted, but I think right now, we're looking at six
3 or -- I don't know. Six or eight products that will be
4 recategorized, but we need to get the details in writing from EPA
5 so we can go forward with that.

6 MR. MATHEWS: Okay. That's six or eight inerts?

7 MS. BROWN-ROSEN: Products. No. It's -- I'm talking
8 products. So far, I know about four inerts that are definitely
9 recategorized. So, that's -- but we can keep you posted.

10 MR. MATHEWS: Bottom line is there was what? There was
11 60 something or 80 some that used to be on your list as approved
12 List 3s --

13 MS. BROWN-ROSEN: We've gone down from 60 initially to
14 about 30 that were in question because products dropped out of
15 the process or reformulated and/or were clarified. So, the list
16 has come down quite a bit, but there's still some important
17 products that are -- we don't know yet.

18 MR. MATHEWS: And can you provide me with a list of the
19 30 List 3s that are still a problem?

20 MS. BROWN-ROSEN: I'll have to check. I think so.
21 Yes, as long as I do it without revealing any business
22 information.

23 MR. MATHEWS: No. I'm just looking for a list of List
24 3s.

1 MS. BROWN-ROSEN: Okay. We can do that.

2 MR. MATHEWS: That's all. I don't need to know what
3 products are on it.

4 MS. BROWN-ROSEN: Okay.

5 CHAIRMAN CARTER: Rose?

6 MS. KOENIG: Well, two things. I just got a little
7 delivery, but I'll talk about this. First, as far as Emily's
8 concern, I guess I would -- again, after talking to EPA, I'm just
9 a little concerned about the process by which this is going forth
10 because, Number 1, I -- I didn't want it to look or appear, since
11 Emily is the representative of Armery, I didn't want it to appear
12 to the industry that it was only Armery's concerns that were
13 being addressed in terms of these List 3 inerts.

14 I mean, the process right now has been kind of indirect
15 where Emily's been talking to EPA. So, again, you know, I stress
16 that maybe a separate task force to deal specifically with those
17 things, including you, be formulated just so that we don't -- it
18 doesn't come back as if it wasn't an organized --

19 MS. BROWN-ROSEN: Well, yeah, there's more players out
20 there that aren't using the Armery service that may be -- but
21 they may not be as well informed or be as well notified because,
22 you know, at least we've been trying to tell people for the last
23 two years about this whole List 3/List 4 thing. So, we just may
24 be continuing to hear from those people that have been

1 traditionally possibly allowed.

2 MS. KOENIG: But my take on what EPA said was that they
3 felt like they needed somebody at NOP that they were working
4 with, in addition to the NOSB, which I can
5 --

6 MS. BROWN-ROSEN: I think that's related to the
7 Labeling Program which is a little different that the inerts
8 recategorization. That's a whole different division at EPA
9 that's doing the inerts tolerance exemption. So, but the
10 Labeling Program is -- they have gone forward as far as I know to
11 -- as far as they can internally at EPA, but they don't want to
12 go farther until they have a really clear process established
13 with NOP for oversight and consultation, so that they don't get
14 in trouble for approving things that actually aren't compliant
15 with NOP. They want to have that all spelled out, but I think
16 hopefully someone will show up tomorrow from, I think, Bob Tarla
17 may show up and you can ask him.

18 MR. MATHEWS: And we are working with them. Arthur has
19 had some meetings with them and Barbara's been looking at a list.
20 Arthur's been looking at a list. So, it is being worked on at
21 the NOP.

22 MS. KOENIG: The other thing is in public comment,
23 Marty brought up the government's Spray Programs. That's been
24 something that I guess he's been coming to the meetings talking

1 about, and I'm not sure if we need to address that within the
2 committee or is that something that you can deal with directly,
3 but I want to kind of get him out of my hair. I got a lot of
4 hair. Marty.

5 MR. MATHEWS: I'm sorry, Rose. I can't help you with
6 that one. I don't want him in my hair.

7 MS. KOENIG: But he brought up -- I mean, he can maybe
8 explain that, but it was the government-mandated Spray Programs
9 and tieing what's in the law, the two sections of the law, or do
10 we have to deal with that separately, but either it's got to be -
11 - you know, as I explained to him, it's got to be either on our
12 work plan to deal with those issues or you can say it's simply
13 done.

14 MR. MATHEWS: Well, what Marty is asking for is
15 essentially a rule change because we have said all along that
16 when there is an emergency spray program, the application of that
17 pesticide to that crop disqualifies the crop from organic. They
18 have to sell that crop on the conventional market. The land
19 itself remains as organic. You don't lose the certification on
20 your land. You just can't sell the product as organic.

21 I guess I asked a question. If somebody is in an area
22 where they are repeatedly emergency sprayed, should they be
23 growing organic in that area, which is a license to continue to
24 produce organic crop that a prohibited substance has been applied

1 to?

2 MS. KOENIG: Then I guess I'm not clear what -- Marty,
3 what are you asking? What were you talking about in terms of
4 tieing --

5 MR. MATHEWS: What I've heard, what my understanding of
6 it is, is that he wants the crop to be able to be sold as
7 organic.

8 CHAIRMAN CARTER: Okay. Marty, you've been asked a
9 question. So, approach the mike and then --

10 MR. MESH: The National Organic Standards Board
11 recommendation was that the crop not be sold as organic but the
12 farmer be compensated. That part of it was left out in the final
13 rule. Without compensating the farmer, a farmer will go out of
14 business. Two years worth of Valencia crops on the tree,
15 Valencia oranges are grapefruit. At the same time, one
16 application, not -- we're not talking about, you know, routine
17 every-day spraying. We're talking about a government-mandated
18 spray, one time, that leaves no residues or very little,
19 certainly below tolerance, below detectable limits, when we did
20 the residue test, and then the fruit is juiced. So, the fruit is
21 washed, then juiced, and you're saying the juice can't even be
22 sold as organic. But if somebody drifts over and has under 5
23 percent of EPA tolerance, that could still be sold as organic.

24 MR. MATHEWS: With your logic, I would be able to tell

1 a certain chicken producer that they can use conventional grain
2 to raise organic chickens.

3 MR. MESH: That's a silly argument.

4 MR. MATHEWS: That's their argument. Their argument is
5 that when the grain is tested, there's no pesticide.

6 MR. MESH: That's a silly argument and it's not the
7 same, but --

8 MR. MATHEWS: It is the same.

9 CHAIRMAN CARTER: One of the things I want to raise,
10 though, I mean, one of the issues that Marty brings up, I think,
11 is the bigger issue and is a discussion that we need to begin
12 having with Risk Management Agency about the economic loss
13 incurred by organic producers from certain emergency practices.
14 That, to me, is a risk management discussion.

15 MR. MATHEWS: That's correct, because there's nothing
16 within the Organic Foods Production Act that provides for that
17 kind of compensation, and we can't through regulation require
18 that kind of compensation.

19 MR. MESH: But the language in the rule was really
20 written from the National Organic Standards Board
21 recommendations, but obviously you left out the part, I
22 understand why, about compensation. But in the two sections, one
23 is 5 percent and the next one, if it's a government-mandated
24 spray with no residues at all, it can be sold as organic.

1 MS. BURTON: Marty, would something like that be
2 covered under crop insurance?

3 MS. GOLDSMITH: The Animal Plant Health Inspection
4 Service occasionally, you know, has to go out and destroy a crop
5 because of disease, and they have indemnification programs.
6 There are compensations. They also compensate livestock
7 producers when they have to put down herds and that sort of
8 thing. So, I think the place you gotta go with this is you gotta
9 take it -- you've got to come back into USDA and you've gotta,
10 you know, get up to the Under Secretary level and figure out
11 where this has got to be directed, whether it's FSA, Farm
12 Services Agency, Risk Management, or APHIS, because if you're
13 talking about federal-mandated spray, you know, federally coming
14 in -- it doesn't matter. That's going to be done in concert. I
15 mean, APHIS at the federal level's going to work at the state
16 level, you know. California med fly is eradicated in concert
17 with the state folks. So, you know, it's all done with co-op
18 agreements and all that sort of thing. But I mean, if it's got
19 to happen, in other -- in conventional agriculture, when it
20 happens, farmers are compensated for the crops or the livestock
21 that have to be destroyed. So, what you've got to do is say,
22 well, why not organic? Because you've effectively destroyed the
23 organic integrity of that crop.

24 MR. MATHEWS: One of the other things you can be

1 looking into is whether or not that emergency spray program can
2 be done with a substance that is allowed. For example, the
3 spinose that was approved in May is used to control certain
4 pests. So, could that be used as that emergency spray program
5 which would mean that you wouldn't even lose the organic status
6 of the crop?

7 CHAIRMAN CARTER: We have one comment. Come to the
8 mike. Identify yourself.

9 MS. FRANCIS: Valerie Francis, Maryland Department of
10 Agriculture, Organic Program.

11 In Maryland, I'm not exactly sure how this evolved, but
12 for our state-mandated spraying programs, they have a 1,000-foot
13 buffer zone around organic farms and that's plugged into their
14 GIS systems. They use that for the airplanes. If it ever came
15 up at all where they felt they really needed to spray an organic
16 farm, we've been talking about approved materials that they would
17 use. So, I think there's room for working things out, and I
18 don't know, it might involve a survey of states and just sort of
19 coming up with some policy and recommendations.

20 CHAIRMAN CARTER: Okay. Very helpful.

21 Okay. Anything else on Crops?

22 (No response)

23 CHAIRMAN CARTER: Okay. George, you're our clean-up
24 batter.

1 MR. SIEMON: Okay. Our work plan is pretty simple. We
2 got 18 materials we're looking at at this meeting here, and if we
3 don't get to them, they will b e pushed forward to October, that,
4 and the Dairy Replacement clause that we talked about, and then
5 the third piece is excipients, and I'm quite concerned about that
6 after our conversation earlier. I've been concerned for quite
7 awhile, but we -- I would really like to see us try to deal with
8 that in the October meeting, but then I realized that won't have
9 any public comment time, even if we did get a proposal forward.

10 So, I hate to have all these active ingredients without
11 commercially-available substances out there. So, I'd like to --
12 Nancy and I were supposed to work on an offering there, but it
13 seems to me that's a real priority now. So, just the materials,
14 excipients and dairy replacement are the main work plans we have
15 now, unless someone else on the committee has something I've
16 forgotten.

17 CHAIRMAN CARTER: Anything else?

18 MS. BROWN-ROSEN: Feed additives.

19 MR. SIEMON: I'm sorry? I didn't hear that.

20 MS. BROWN-ROSEN: Feed additives was supposed to be
21 like November or something. The one they voted on in May.

22 MR. SIEMON: Yeah.

23 MS. BROWN-ROSEN: It just got posted fairly recently.

24 MR. SIEMON: The feed additives.

1 CHAIRMAN CARTER: Are there comments?

2 MR. SIEMON: We made a vote on that. I don't
3 understand the action.

4 MS. BROWN-ROSEN: You're going to comment then.

5 MR. SIEMON: Oh, okay. Yeah. Okay.

6 CHAIRMAN CARTER: Okay.

7 MR. SIEMON: I would still like to visit after here
8 with anybody about the -- I would like to just have a little
9 conversation about that if we could right away.

10 CHAIRMAN CARTER: Okay. Anything else on work plans,
11 committee work plans?

12 (No response)

13 CHAIRMAN CARTER: Okay. Then the last thing that I
14 want to deal with today is in May, we had given preliminary
15 review of the Board Policy Manual, and we had scheduled that then
16 for final action at this meeting. I mean, excuse me, further
17 discussion and amending at this meeting. So, go ahead, Jim.
18 You're the chair of that.

19 MR. SIEMON: I don't have -- did you just hand that out
20 just now?

21 MR. RIDDLE: This morning when you arrived, there
22 should have been the Board Policy Manual current draft, and
23 there's also another little handout on parliamentary procedure
24 terms which I think is quite handy. Keep those two together.

1 MR. SIEMON: I don't have either of them. Sorry.

2 MR. RIDDLE: Anyway, I'll proceed and try and make this
3 rather quick, painless and non-controversial. Would you like me
4 to quote Ray Green? So, there were -- when we discussed it in
5 May and made the presentation and went through it during the
6 board retreat, there were a number of items that were identified
7 for changes, and I did take the time in my sleep to go through
8 and make -- incorporate those changes and send them out to the
9 task force members prior to this meeting. So, that's the copy
10 you have, and so the changes are highlighted in the text that you
11 have. They're gray in the version that you have, and there are -
12 - on Pages -- I'm not going to go through them, but I'll just
13 give you the page numbers to help you find them. Page 4, 7, 8,
14 9, 27, 35, and 30. So, those are the only places where changes
15 were made, and then also, I've noticed that the date on this
16 draft needs to be changed. It still has the May 8th date on it,
17 and there also are draft voting forms on Pages 25 and 26 that
18 have the May dates and those are just included in the Board
19 Policy Manual as examples and eventually, those should be changed
20 just to standard templates instead of having dates on them.

21 There's three items that we've identified that still
22 need to be added, and those are the treatment of abstentions in
23 the voting process and I see that this handout on parliamentary
24 procedure terms has some language about how abstentions are dealt

1 with. So, I think that should just -- I can put that in to the
2 next version that we'll vote on in October.

3 So, the second item is the actual materials voting
4 procedures. We still need to get that into the Board Policy
5 Manual, and then the third is something that the task force needs
6 to work with the NOP on and that is some guidance on how to draft
7 the Board's policy and material recommendations language. We
8 still are struggling with that, I'd say. So, getting that in the
9 Board Policy Manual can help the committee chairs draft their
10 recommendations, and then just so far, I've noticed a couple of
11 things that have come up today where we might want to develop
12 some policy and that is on whether there should be any
13 restrictions or policy on how many proxies are used by commenters
14 on -- at NOSB meetings. Just if there should be or not. It kind
15 of came up and it's like okay, but we don't have a policy on the
16 use of proxies, and then also, we don't have a policy on the
17 posting of our draft recommendations for public comment, and I
18 think that would be helpful as well.

19 So, those are two things that haven't been addressed
20 and haven't been drafted at all. So, hopefully you'll take some
21 time before October, look through the changes that are proposed
22 here, and we'll get out a final draft for us to vote on then at
23 the October meeting.

24 CHAIRMAN CARTER: Any discussion on the Board Policy

1 Manual? What was the second one that you mentioned when you went
2 through your list?

3 MR. RIDDLE: Of the new ones?

4 CHAIRMAN CARTER: Yeah. The three you mentioned, what
5 was Number 2?

6 MR. RIDDLE: Oh. The material voting procedures, need
7 that for Materials Committee.

8 CHAIRMAN CARTER: Okay. Just as a notation, too, the
9 action, the policy that was adopted in August concerning surveys
10 and that type of stuff, we need to incorporate that.

11 MR. RIDDLE: Yeah. It's in here as a draft, but we
12 need to finalize the vote on it by the full Board because it was
13 just a vote by the Executive Committee so far.

14 CHAIRMAN CARTER: Yeah. That's correct.

15 Okay. Okay. Any discussion on the Board Policy
16 Manual? Rick?

17 MR. MATHEWS: No.

18 CHAIRMAN CARTER: Okay.

19 MR. MATHEWS: You won't be changing the proxies before
20 Thursday, will you?

21 CHAIRMAN CARTER: Are you planning on using them?

22 MR. RIDDLE: I don't know that we'll change it at all.
23 It's just we need to have a policy on how to handle it.

24 CHAIRMAN CARTER: Yeah. Because we were kind of flying

1 by the seat of our plants today. So, okay. Any other -- Rick,
2 you had -- this -- we're just into discussion for the good of the
3 Order right now.

4 MR. MATHEWS: Okay. I just want to remind everyone
5 that at the beginning of the meeting many, many hours ago, Dick
6 Carter said that any cell phones were to be turned off or put on
7 vibrate, and that anyone who failed to do that would be buying
8 the next round. I designated myself as the official keeper of
9 the list of those who will be providing rounds. Leslie Zuck owes
10 us all a round and the chairman of the Board, Dave Carter, owes
11 us a round.

12 CHAIRMAN CARTER: Yeah. My phone was on vibrate but
13 when my battery ran low, it started beeping. But in the spirit
14 of participation, I would agree to that.

15 (Whereupon, at 6:10 p.m., the meeting was adjourned, to
16 reconvene tomorrow morning, Wednesday, September 18th, 2002, at
17 8:00 a.m.)

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