UNITED STATES DEPARTMENT OF AGRICULTURE

FRUIT AND VEGETABLE INDUSTRY ADVISORY COMMITTEE

MEETING

WEDNESDAY, AUGUST 14, 2019

The Advisory Committee met in the Fairfax Room of the Hyatt Regency Crystal City Hotel, 2799 Richmond Highway, Arlington, Virginia, at 8:30 a.m., Chalmers R. Carr, III, Chair, presiding.

PRESENT
CHALMERS R. CARR, III, Chair
KILEY HARPER-LARSEN, Vice Chair
RICHARD E. BOWMAN
JOHN CHANDLER
TINA ELLOR
K.C. ELY
BRET ERICKSON
MOLLY GLEASON
JULIE L. GORDON
JEFF HUCKABY
BRIAN KIRSCHENMANN
TOM LIPETZKY
KELLY POWELL-MCIVER
READE SIEVERT
STEVE SMITH
BRUCE TALBOTT
GREG TISON
DERRIN WHEELER
TOMMY WILKINS
CHARLES A. WINGARD
DONN ZEA
MEMBERS NOT IN ATTENDANCE
DAVID K. BELL
MICHAEL JANIS
PAUL PALMBY

STAFF PRESENT
DARRELL HUGHES, Designated Federal Official
SONIA JIMENEZ, Deputy Administrator, AMS

ALSO PRESENT
C.B. ALONSO, USDA Rural Housing Service
ROBERT GUENTHER, United Fresh Produce Association
BRENDA FOOS, USDA Pesticide Data Program
JASON HAFEMEISTER, USDA Trade and Foreign Agricultural Affairs
DAVID HILES, U.S. Department of Labor
AMELIA JACKSON-GHEISSARI, Bayer AG
JOHN JONES, U.S. Department of Labor
LEWIS KOSKI, Metrc
BRUCE LAMMERS, Administrator, USDA Rural Housing Service
JODI McDANIEL, USDA National Agricultural Statistics Service
JENNIFER McENTIRE, United Fresh Produce Association
ALLISON MOORE, Fresh Produce Association of the Americas
BRIAN PASTERNAK, U.S. Department of Labor
ED ROBISON, U.S. Department of Labor
DAVID TALAN, U.S. Department of Labor
CONTENTS

Call to Order................................................. 4

Public Comments.............................................. 11

Status Report to Full Committee (Trade)................ 93

Presentation - Agricultural Trade.......................... 99

Status Report to Full Committee (Production)

Presentation - Overview of Pesticide Data Program........ 164

Status Report to Full Committee (Labor)................... 201

Presentation - Farm Labor.................................... 205

Presentation - Overview of Farm Labor Housing Direct Loans & Grants Program...................... 315

Status Report to Full Committee (Food Safety)............. 341

Presentation - Agricultural Water Regulation................ 359

Adjourn....................................................... 396
CHAIR CARR: Well, good morning, everybody. I will call our meeting to order. I appreciate everybody traveling in and more importantly, I appreciate all the hard work that everybody's done over the summer in putting together a very good list of recommendations and discussion points for later on.

A little point of order so just so we understand how this is going to flow a little bit. Each one of the working groups is going to make a presentation on what has already been submitted in your packet. Hopefully you all had the time to read them.

So we're basically going to just read those statements, not go into discussion on those today but read those, have guest speakers who have been invited to speak on those topics.

Obviously want you to ask questions to those speakers while they're here so we're going to allow ample time for that.
The intention tomorrow is we will go back in the working groups so we'll start tomorrow morning with about an hour for each working group to break up to see if there's anything they want to modify or add to their recommendations.

Then we'll bring it back to the full Committee starting hopefully about 9 o'clock and be able to discuss each one of them.

The goal is hopefully to approve those as a Committee. If we don't reach a consensus or if there's still work to be done, we still have about 45 days roughly to go back and do those over the telephone and get those done later on. We can either do it by a conference call or submit them around in writing.

So again, it would be great if we could wrap things up today, or today and tomorrow but it's not a requirement. We do have time remaining.

And again and it's hopefully that these speakers will be able to bring some clarity
to some of the topics we're talking about. So
again, as you look through it and you hear these
speakers speak, please be ready to ask them
questions and everything.

So at this point in time, I'm going to
turn it over to the Deputy Administrator. Sonia?

MS. JIMENEZ: Hi, good morning. I'm
very happy to see you all again. You've been
very busy since the last time we met. In fact, I
don't remember a committee that has been so busy
and since I, you know, since I started a long
time ago. I'm not going to say how many years.

But as you know, the purpose of this
Committee is to examine the full spectrum of
specialty crop issues and make recommendations to
the Secretary of Agriculture about how we better
tailor our programs to better meet the produce
industry's needs.

We fully understand all the details
involved in doing that and we welcome
recommendations that are applicable to all sizes
and all types of industry businesses.
So I appreciate all the work you've done. I know that you've been very busy over the phone and different long-distance meetings.

Just to recap a couple of the things that we, that you've been doing since May, you established four working groups. One for Food Safety, one for Labor, one for Trade, and one for Production.

I remember when we met in May, you had back and forth discussions of what the committees and what the more important pieces were and those were the four committees that you decided to establish.

On the Food Safety, you held three conference calls, one of which included coordination with about half a dozen FDA subject matter experts engaged in committee issues.

And some of the issues that you talked about ranged from the FSMA topics concerns surrounding the Foreign Supplier Verification Program and other Ag Water regulations. So we look forward to that committee's recommendations.
Later we also have a stakeholder from United Fresh that will provide industry perspective on Ag Water later today.

On the Labor Committee, you members of that committee explored a range of topics associated with the H2-A Program which as you know, allows the U.S. employers to bring foreign nationals to work on our fields.

The work group is also very interested in farm labor statistics and labor survey methodologies. And we have today a person from Labor to talk to you about some of those issues.

Trade, you put together three types of recommendations to be considered. One on Buy America, one on trade promotion, and one on protecting U.S. growers.

We have someone from the U.S. Trade and Foreign Agriculture Affairs expert to talk to you about some of those issues today.

Production, last but not least. You developed recommendations for consideration to, pertaining to research, crop insurance, over
spraying and also targets chemical applications
and inconsistent agriculture pesticide levels.

We also have a speaker. Every
committee has a speaker, at least one today, so
that's great, that is going to talk to you about
Pesticide Data Program.

The last thing I wanted to mention was
at the May meeting, I was very surprised that
some of you mentioned that people were not as
familiar with our inspection and auditing
programs and that really hit hard on me because
I'm like, how could we not have shared that
information with the industry?

So I want to tell you that Jack Davis
which works for us, unfortunately he's not here
today, has prepared some materials and a plan on
how we can better communicate with the industry
about our services.

He's going to be contacting you after
this meeting, shortly after this meeting, so you
can take a look at what we've put together to get
your feedback about what you think, where we're
going, if it's the right way to go, or any
another recommendation you may have on that
because we want to make sure that people do know
all the services that are available.

I think you mentioned, Carl, that you
called a service and it was faster and cheaper
and great service. So we want to make sure that
people have access to our services.

So thank you very much. You have a
full agenda. I'm very excited to hear about all
the things that you've been working on and all
the recommendations you're going make.

I'm going to be sitting in the back
because that's the only plug I could find so I
can take notes. I couldn't find a plug from
here.

But thank you for being here and I
look forward to all of your recommendations
today.

CHAIR CARR: Thank you. Darrell? Has
he left?

MS. JIMENEZ: I think he walked
outside. What do you need?

CHAIR CARR: Well, I was going to say, are we ready for public comment?

MS. JIMENEZ: Yes, I think so. Let me find Darrell real quick.

CHAIR CARR: So now we're going to move into the public comment section on -- I know there are some speakers here that are going to talk to us on some topics but there's also some that have submitted some in writing that you're going to read, is that correct?

MR. HUGHES: Yes, yes. All right. So on, what day is this, Monday, July 22nd, we received a written public comment from Jean Public. Jean Public's comments were emailed responses.

There are too many toxic chemicals being used to grow these products. Growers are poisoning the air, water, soil and their own workers and owners.

The American people are dying earlier than ever and at lower ages. Cancer is rampant.
We need cleaner organic food to go back to what our ancestors ate.

I am against all the chemical growing practices for plants and vegetables. I assume that meant, that's supposed to be, I am against all the chemical growing practices for plants and vegetables, totally opposed to it.

We need organic. Also, the peaches you buy at the store are totally rotten in two days, totally rotten. That didn't used to happen. This comment is for the public record.

Please receive, Jean Public.

And the second written comment is going to be from Lance Jungmeyer from the Fresh Produce Association of the Americas. However, Lance has a delegate here who's going to give oral remarks in person.

But before we have his delegate come up, we're going to invite the next oral speaker and it will be a representative from a company called METRC to give oral remarks. And I think it's METRC, right? METRC.
MR. KOSKI: Yeah.

MR. HUGHES: Yes. Go ahead and introduce yourself.

MR. KOSKI: Thank you so much for giving me the opportunity to be here with you today. My name is Lewis Koski. I'm a former law enforcement executive from the state of Colorado. I saw that we had someone there from the state.

I am currently the chief operating officer for a company called METRC, M-E-T-R-C. You can find out website at metrc.com.

We are essentially an inventory tracking system and we have most notably been involved in the cannabis industry and we work for 13 state governments around the country.

We track inventory that is regulated by, comprehensively regulated by each state agency that tracks cannabis plants from the time they're little baby plants to the time that they're harvested and transported to other licensed facilities like the store fronts for smokable cannabis or to processors for conversion
into edible products and oils and tinctures and things like that.

So the reason why I'm here today is I'm definitely not here today to ask you guys to start having some considerations about the cannabis industry and those types of things, but what I did want to do is just take an opportunity to kind of introduce ourselves, kind of let you know some of what we've been involved with and how the public-private partnerships that we've been involved with around the country can help to inform other industry outside of the cannabis sector.

Along those lines I'd just like to take a few minutes to just kind of describe a little bit more, in a little more detail what we've built and kind of what we've learned from the process of doing this 13 times across the country.

So our system is somewhat unique in that it's a government system. And what, but it's a government system that's visible from the
licensee side of the equation, but it's also visible from the government side of the equation. And so we contact with government agencies around the country and licensees report into our system their inventory based on regulatory requirements that each state has. And so it's, sometimes those are very comprehensive and sometimes they're a little less so. But we collect key data points from the time a cannabis plant is very small to the time it's harvested until the time it's transported to other licensed premises. And we use that, we use radio frequency ID tagging as a way to really make that process efficient. And one of the cornerstones to our system is that we pay very close attention and customize our solution based on the regulatory requirement so as licensed and regulated, it's the regulated community is reporting into the system, their inventories, they're also meeting a lot of those reporting requirements that they
have for the regulator as is.

I've been a police officer and a regulator for my entire adult life and one of the biggest challenges we have as a regulator is to be able to efficiently get the information that we need so that we're not disrupting those business operations of the regulated community.

And what we've done is we've created a system that allows the regulating community to seamlessly continue on with their business operations while also at the same time being able to input data into our system that meets a lot of the reporting requirements that a regulated community faces.

And so we really believe strongly in that public-private partnership between the regulator, the regulated community and the technologies that can make those processes much more efficient.

And kind of for the sake of time because I know you guys have a very packed agenda, but I'd just share a little bit of what
we've learned in that process that might be able to help you all in some of the work that you do.

One is that we really feel, this is kind of also, kind of close to my heart because it's the topic of my doctoral dissertation that I'm working on in my free time, and that is that the regulator is really critical at facilitating what's in the public interest.

Not that they're really -- it's really important for the, or the regulator to bring in and collaborate with members of the regulated community, special interest groups and those types of things, to really arrive at balanced public policy.

As I've been traveling around the world talking about cannabis policy, one thing that I've noticed is that it's not always how comprehensive the regulating framework, that it's tough for the regulated community, it's really how hard it is to report in and show compliance and be able to demonstrate compliance.

And what we've learned is that the
more the regulator is involved in facilitating those processes that you can strike that right balance.

The other thing too that's kind of different, that was different for me because I've been on the law enforcement and regulator side: to a hammer, everything is a nail.

But I realized that the regulating community, regardless of what the industry, their will to comply is very strong but the tools to be able to report on compliance are sometimes lacking and that's why we're really focused on having a system that makes it efficient for the regulated community to keep stride with their business practices while at the same time being able to meet reporting requirements that the regulator has.

The other thing too is we found that this can be scalable. So depending upon the size of the business, the actual process of tracking inventory can be scalable for small companies to make it really affordable while at the same time,
not being so cumbersome for a large organization
so that it ends of costing millions of dollars to
be able to afford.

And then kind of lastily, we found that
our system doesn't have to be, you can have a
centralized system that the government can look
into to efficiently monitor essentially from
their desktops in their office space, to be able
to take enforcement action and if necessary, have
evidentiary data that they can get real
efficiently while still making it real efficient
for the licensees and the regulating community,
input that information.

They can either do it manually
entering information or they can utilize
proprietary or legacy systems that they have in
place for ERP to be able to just seamlessly
transition that data over to the government
system for monitoring.

So we feel really strongly that there
is a lot to be learned from the cannabis use
case, not because we advocate one way or the
other for legalization of cannabis or hemp, but we really believe that there's been some real progress in creating efficient systems for regulators, the regulated community, and technologies to work together to have a comprehensive regulated framework while also still being able to do so without disrupting commerce.

So with that I'm happy to take some comments or some questions from the Committee.

CHAIR CARR: I have one. When you talked about your software there at the end when you have legacy systems that companies have and then new technology that go in into your data base and then you can, that to be able to meet the U.S. requirements or the regulatory requirements, do you have software that actually will take their information in the company's way if it's say a legacy system and will be able to extract that data and put it where it's supposed to? Is that what you're doing basically or?

MR. KOSKI: Yes, so if you have a
system that you use, like an ERP system, that you
report all of your inventory into anyway, that
system can integrate in with our system to throw
data over the wall to populate the system that
the government's going to look at.

And the government in our system also
has the ability to throw information over the
wall into that ERP.

So for example, if you had product
that was moving from a farm to a processor or a
farm to a distributor, when that data from our
system could get thrown over the wall and
received by another system without the -- either
the farm or the distributor having to actually
log into our system.

MS. HARPER LARSEN: Couple of
questions bouncing off of him, based on FN
statements --

MR. KOSKI: I'm sorry?

MS. HARPER LARSEN: So when you talk
about ERP transition from a legacy system into a
software system --
MR. KOSKI: Yes?

MS. HARPER LARSEN: Most of them are based on FN statements which are highly human error-prone. So does your software read it or does it read and then come back? How -- because we're trying to look at this as it relates to all of our subgroup committee discussions.

MR. KOSKI: Yes. Sure, sure. So what I would say and I hope if I missed the mark on this just throw something at me, but so the way, what we've found is double entry is the most error-prone methodology of being able to report to a government on.

So if you have to enter something into your current systems and then you have to reenter that into a government system, that is the most likely avenue of creating errors.

So what we've done is we've created an interface that allows those software programs to take the data that is entered into an ERP system, and let's say it's just like, like a manifest or data that is input into a system. That manifest
data comes from that system and automatically populates on a field by field basis.

So the third party integrators which would be your system that integrate into our system, we work together with the third party integrators to make sure that the fields that they use are the fields that land and are important to the regulator for their monitoring activities.

MS. HARPER LARSEN: Okay. All right. You mentioned RFID technology and many of us in the produce industry have been down that route before. How does that relate to blockchain and transparency?

MR. KOSKI: Well, so RFID technology has proven to be very successful in the cannabis industry. And the system that we've created can be as granular as tagging every plant and then tracking batches that are derived from that plant.

Also, we have the ability then to trace back, talk about transparency, once a
product makes it all the way to the end point to
where the consumer purchases it, if it were to be
a public health or is a safety concern, we can
actually trace back through the data that we had,
that we collected at key points during the stream
of commerce to be able to trace back to that
product all the way to its originations.

So I don't know exactly what your
experience has been with RFID technology, but
there's a little bit, my experience has shown
that there's a lot of conversation about how
granular you trace things.

Do you trace every potato that comes
out of the ground? We would say absolutely not.
Do you track every strawberry plant? Absolutely
not. There's ways for you to be able to scale
the tracking using RFID technology based on the
comprehensive nature of the regulations.

So if the regulations allow for it to
be done by an acre, we can track it by an acre.
But we'd still be able to trace things back to
the origins.
And one of the concerns that we, or one of the problems that we see is a lot of times in fruits and vegetables and in the agricultural community, you'll have an outbreak.

And a lot of times the entire industry pays the price for that outbreak because there's not a system in place that allows the regulator or the regulated community to go back and really identify the origins of the outbreak.

So our system, even using like minimal points throughout the stream of commerce would be able to track back, well, a lot more surgically than just a region of California or a region in the southeast part of the country.

We'd be able to really narrow it down to the actual farm that the products came from and probably, depending upon how many RFID tags you'd use, and we recommend, you know, the less the better as long as you can collect the data that you need, you'd be able to narrow it down to that acre or two acres that produced the product that was creating an outbreak.
So when it comes to blockchain and transparency, I think what this does is the system itself creates a spirit of transparency in that the regulated community is like, we understand these points are the ones that are important to you as a regulator, we're going to feed those into a system where you can monitor efficiently and potentially even do inspections and risk mitigation work from the desktop and then when necessary you can come out and do inspections and disrupt our operations.

And so the transparency is really there but it's possible to do it in stride rather than having to have a separate set of actions that you have to take to report into the regulator community.

MS. HARPER LARSEN: Thank you.

MR. KOSKI: And then just sort of blockchain, just one quick thing on blockchain, I would say that our, in the same way the blockchain really helps with the transparency piece, II think the way we have our system set up
and at the point that we collect data for tracing product that can move forth within the stream of commerce, that we cover a lot of what blockchain technology is capable of doing.

CHAIR CARR: Any other questions?

MR. KOSKI: Thank you, again. I'm going to be around all day today if you have any more interest. I have business cards and some of our material for you guys to have so if you want to get back in touch at a later time, I'd love to be able to able to talk with you more. Thanks again for your time.

CHAIR CARR: Thank you.

MR. HUGHES: Now we invite Lance Jungmeyer's delegate to speak. As that speaker approaches the podium, just in transparency, I received written comments from a member of public at 8:40 this morning. I won't be able to provide that to you all until after the meeting but I did receive some written comments and I'll probably, I'll try to forward that email to the group just so that you can read them before you go into your
I'm going to have to report back to Lance. You'll be happy to know that I am his delegate. He works in an office of all females and we tell him that he works for us. So he will be happy to know today that I am representing him, finally. You know, he doesn't get all the kudos he deserves, so kudos.

So I'm here because we're one of the many faces of the specialty crop industry. Our members are U.S. importers of fresh produce from Mexico. A lot of them are also integrated with growing operations here in the U.S. or in Canada. So we are sort of the example of the integrated North America in terms of supply of fresh produce. And I think when you look at the last 20 years, we've done a good job as a produce
industry of increasing consumption of a lot of major commodities with consumers.

You look at blueberries, they’ve increased 600 percent according to ERS data. Tomatoes since the 90s have increased close to 80 percent. You know, going from 12 pounds to 20 pounds is a pretty big deal and then we see that across the board for a lot of commodities.

You know, I think that’s a huge, important thing we have to remember and something that we need to focus on, how do we keep people eating the foods that we’re growing and bringing to the marketplace.

Ag obviously accounts for a huge amount of our economy. U.S. Ag actually exported $138 billion in 2017. I’m taking all this from USDA, so if there’s a problem you have to yell at the USDA folks.

And that’s a $178 billion generated just from that $138 billion. So and that’s a huge economic gain. I mean, that’s $317 million worth of exports in a year.
If you look at imports, we also impact the U.S. economy positively. We, just looking at tomatoes we had a study done by the U of A. That's 33,000 U.S. jobs across the country. In my county that accounts for over 20 percent of total employment in a rural county that's very poor and that's a huge deal.

We account for overall produce, 24 percent of total wages in our county, in our little rural county.

So looking at our Ag industry in a whole, I think you see a lot of good things that are happening and also a lot of potential.

I think we have to keep looking at programs that are going to do more to bring food to consumers and to get consumers to eat the foods that we grow and that we bring to the marketplace instead of eating the Snickers bar or the what have you. You know, that's our competition, in our opinion anyway.

And there have been a lot of successful programs with USDA. I know for
domestic agriculture and MAP funding for exports, again, those, the $300 billion in economic activity for U.S. exports.

In looking at how do you leverage MAP funding, how do you improve it, how do you amplify that with potential state programs.

And we've seen a lot of really great, positive movement come out of the promotion programs, watermelons, avocados and mangos, that not only leverages U.S. dollars but it leverages all the imported produce dollars as well coming into those programs.

And then obviously school lunches and how do we work better with global partners and state partners in addition to federal money to improve kids wanting to eat fresh produce.

And I know our members support the United Fresh Salad Bars in Schools Program and we do that in our local community and we see that's a huge positive benefit just in our area, especially for kids, that a lot of their families work in the produce industry and now they're
going to, you know, eat salads at schools.

So that's for us, the, we would encourage the Committee to focus on programs that look at how do you increase access for consumers to fresh fruits and vegetables.

We are encouraging you all to avoid programs that seek to limit supplies to consumers that are going to make consumer choice diminished. Measures to restrict supply harms everybody. If you put protectionist measures in for products coming in from other countries, you're harming the companies that import, but you are also harming U.S. Ag that exports because what's good for the goose is going to be good for the gander.

So if you're going to limit imports into the U.S. then we're going to have retaliatory measures from our trading partners as well.

We're seeing that play out now in a number of arenas in trade. I know China's the big one that you can think of but, you know, also
looking at what's happening right now with tomatoes in Mexico and, you know, the negotiations are ongoing for that.

And it's just not, it's counterproductive to increasing consumption of the foods that we're all growing and that's really the reason you grow it, right, to have people buy and eat it.

Another concern that restricts movement is the proposed seasonality trade provisions. I know those were talked about in the USMCA and they were rejected in that process and we encourage this Committee to also reject measures such as seasonality trade restrictions.

So let's focus on how do you get people to eat more, how do you, when you put more food in front of people, consumption increases and so I would just ask that we focus on ways to do that instead of ways the industry and energies fighting for our little small piece of the pie, let's make our pie bigger together. So that's my comment.
CHAIR CARR: Questions?

MR. BOWMAN: I have a comment or a question. You know, I do believe we need sustainable market access but we also need fair trade and House Bill 101 addresses that with a seasonality deal and I think that's a very important topic that we need to discuss, and, you know, I think you're missing the point a little bit on your comment. Thank you.

MS. MOORE: All right. We will have to agree to disagree. I think the seasonality bill takes us a step back and is going to create a patchwork quilt of tit-for-tat trade fights and, you know, people that look to export regional groups and those export markets putting similar cases against U.S. product.

MR. BOWMAN: But if you have sustainable market access but you can't have movement forward for everybody.

dumping and at times and the only way we can
combat that is with a seasonal clause, then
there'll still be seasonal business.

And if you have times during the year
where there's excess supply coming into our
market, you know, we need to be able to enforce
that and then and protect ourselves also.

MS. MOORE: I think seasonal change to
anti-dumping law is the wrong way to go.

MR. BOWMAN: Okay.

MS. MOORE: That's my opinion.

MR. WILKINS: You've stated that the
USMCA rejected the first negotiation on
seasonality. Do you have where that is today?

MS. MOORE: As far as I know,
seasonality is not in the implementing language
for USMCA. Mexico and Canada both were strongly
opposed to seasonality language. So in the final
implementing language that was passed by Mexico
and Canada already, it's not in the language.

MR. WILKINS: Is that the time frame
we're hearing of October '19 that that is, are
you aware of that date? Do you know?

    MR. WILKINS: I believe it's come up very quickly. I don't have the exact date.

    MS. MOORE: Yes, I don't know what the timeline is for when the USTR will even get the final package back to Congress but I think that's the next step.

    MS. HARPER LARSEN: First of all, thank you very much for coming to present to us knowing the makeup of the Committee, predominately, and having done business in both domestic and foreign markets, I understand where your commentary is at.

    One thing that I would like to ask about is we're dealing with trading partners who don't have seasonality issues predominately in their production patterns.

    Mexico in particular, according to a University of Florida Study, invested since 2005 52 times more capital in developing its grower infrastructure to develop greenhouse structures.

    We already know that Canada has the
capacity especially in the four eastern provinces that supply in a lot of the dry veg so we're dealing with two trading partners here who don't have seasonality and we have the lower hand at that.

What would the Fresh Produce of the Americas Association offer to assist since you do also receive domestic product into those repacking operations in Nogales, to assist this Committee in making a well-rounded statement?

MS. MOORE: So we don't really see a lot of domestic product come into Nogales, into repacking facilities.

A lot of the repacking of any kind of product happens closer to the buying end. So a lot of that is actually, I know just in tomatoes is specifically a lot of U.S. integrated-owned repacking facilities that are repacking both domestic and foreign product.

A lot of our members for example might be growers in Canada, as well as growers here in the U.S., as well as growers in Mexico. We're
working with all of them.

They looked and said, what can I do to bring product to consumers. What can I do to access retail clients and does that involve me expanding my supply chain, expanding my growing window in other areas to be able to do that?

So a lot of people have looked at different innovation like Greenhouse in Canada. Greenhouse in Mexico.

Greenhouses here in the U.S., you're seeing that pop up in around metropolitan areas. You see greenhouses in Virginia. You see greenhouses going in in Kentucky.

You know, people are finding ways to adopt new technologies. I'm not a grower here in the U.S. I can't say, hey, go and adopt this technology.

What I can say is, we need to have consumer access to the foods that they want to eat year-round and flavors that they want, you know, to enjoy. Flavorful, good, high quality product. And, you know, you need to look to what
are the programs that can help growers across the
U.S. innovate and meet those demands.

MS. HARPER LARSEN: Thank you.

MR. WILKINS: I guess this is more of
a comment than anything but, you know, my father
was in this business for over 50 years in retail
and I've followed the past 44 and we both have
spent our lifetime trying to supply consumer,
okay.

You know, when I look at why I came
here, we all represent obviously certain entities
in the world. But you know, I, Bret and I happen
to live in an area that has the highest diabetes
rate in the world and one of the ways we can do
is increase consumption. And I think that we've
identified an issue here and I worry that we
haven't provided the solution.

When we walk around Texas, which is
where I'm from, there's a tremendous amount of
second- and third-generation farmers that are
struggling.

They're fighting water, they're
fighting urban encroachment, they're fighting labor. They're also fighting global encroachment as far as what they're doing.

You know, I challenge our Committee to come up more with a solution than a statement and I worry that we're just doing a statement and not offering a solution.

You mentioned House Bill 101 and dumping. You know, I worry that the vocabulary that we've stated in our recommendation has been left out of the conversation at this point, and if I was Secretary Perdue, I'd want more of a solution than just a statement and I worry that we're making a statement.

And I've got to look growers in Texas in the eye that I'm asking to grow and, you know, I believe in the American farmer but I don't see that we've offered a solution. Maybe some, and we are all in this business and, you know, I challenge us tomorrow to be a little bit more definitive in a solution.

We need all the fresh produce
consumption we can muster but it can't be at the
sacrifice of the American farmer. I believe in
that. I truly do.

But I just, I feel like we're
reiterating a problem without offering a solution
and I challenge us to work on that solution.

CHAIR CARR: Any other questions or
comments for Allison? Allison, I have one.
First of all again, I appreciate your comments
and everything and I do think we could all agree
on the fact that we want to increase consumption.

We, you know, and you mentioned the
school lunch programs and the best way to start
people off eating healthy is to start them off
when they're young. And so we've all agreed and
bought into that.

But one of our big concerns in this
and it's something we're going to discuss
tomorrow, is the Buy American provisions in our
school lunch programs where we're using federal
dollars that are getting spent on foreign
products that are putting our producers at a
disadvantage here.

So these are concerns that we have when you're taking federal dollars and going and buying foreign product when there's U.S. product available.

And as Richard said, the big thing is fair trade. So if you're competing, if everything is level, that's great but when you're competing when it gets to subsidized industry in Mexico right now that's getting federal dollars from their own government to grow their infrastructure, defer their cost, we're not competing on a level playing field.

So that's where some of these challenges will come in. If you put us on a level playing field, we'll compete. But with all the regulations, our labor costs, and the fact that you got subsidized production coming in, not just from Mexico, but other countries as well, it is very difficult and we could see this industry change and continue to change in a negative way because of that.
Anything else? Thank you, Allison, for your comments.

MS. MOORE: Thank you.

MR. HUGHES: Okay. So that's the last public speaker that was registered. We are turning ahead on time.

We do have a few members here with the public. There's a representative from Bayer here. It's totally up to you if you would like. If you're interested in giving some quick comments to the Committee, feel free to do so. Pass or?

MS. JACKSON-GHEISSARI: Yes, I mean, I haven't been trying to do this at all. This is the first time I've heard about --

MR. HUGHES: Okay.

MS. JACKSON-GHEISSARI: -- this meeting and really very happy to be here. One of the areas that --

MR. HUGHES: Would you, do you mind coming up here?

MS. JACKSON-GHEISSARI: Sure. Thank
you.

MR. HUGHES: Sorry.

MS. JACKSON-GHEISSARI: That's okay.

MR. HUGHES: I figured I'd just give you the opportunity.

(Simultaneous speaking.)


And for the last almost 30 years I've been in the highly regulation industry of agrochemicals, whether they're for the conventional farming industry or for the organic industry.

In the last four years, I would say I've spent a lot of time working on import tolerances and MRLs and I heard the Chairman say that later on today I think we're going to hear from the USTR or USDA FAS and I'd be happy to engage in that conversation.
I would say that the countries that we're very concerned about at the moment are those countries that have their own positive list system and they're moving away from Codex MRLs.

So for example, China, Taiwan and Korea, and I know all those countries are important, especially Taiwan and Korea, to our fruit and vegetable exporters.

The EU also with its special precautionary regulations and the cut-off criteria that they apply to the approval system for pesticides in the European Union. And that is something that we are looking at, you know, very closely for our products and U.S. export.

So I'm happy to answer questions. I hadn't intended to make any statements but it's a fabulous organization here and I'm glad I got to know about you.

I'll be going out to California in January to speak to some growers about this issue, about particularly China, Taiwan and Korea and I can maybe tell you a little bit about that
a little later. Thank you.

MR. HUGHES: Okay. And also we have

Robert Guenther from the United Fresh and then
we'll be hearing from United Fresh later on this
afternoon. But I'd like Robert to come up and
give us a little more.

MR. TISON: Darrell, excuse me, will
we be getting a printout of all these speakers
with their names and who they're with?

MR. HUGHES: Yes.

MR. TISON: Okay.

MR. GUENTHER: Well, good morning
again or good morning. Robert Guenther with
United Fresh Produce. I wasn't going to speak
but Darrell twisted my arm a little bit to say a
few words. But again, to echo other speakers,
welcome back for your second meeting.

For this session, as you know, United
Fresh, this is a Committee that's very near and
dear to our heart.

We worked very closely back in the
early 2000s with Secretary Veneman to get this
Fruit and Vegetable Industry Advisory Committee
chartered and it's, we think it's been a very
successful committee over the last 18-plus years.

I really didn't have any formal
comments but to welcome you. You know, I would
say, based on what I've heard already, I mean,
you're talking about issues we're talking about
every day.

Tommy, to your point about solutions
versus finger-pointing is very important to us
especially in this trade environment we're in at
this time.

You know, we need solutions and that's
a combination of things. Part of it is increased
consumption, part of it is better infrastructure
investment. The government can help that.

Certainly we work very closely in the
Farm Bill to kind of bring back hopefully to some
efforts through the Farm Bill efforts that we
spend a lot of time on and other industry
associations spend a lot of time on say block
grants, on research, pest/disease. But that's
not enough, obviously.

So we need to continue to think outside the box there beyond the traditional ways that USDA and other parts of the government can help us. We're looking at that. There's a lot of pressure on a lot of you, you know, in this, you know, current trade environment.

But we also see positive stuff and, you know, you mentioned the access to more fruits and vegetables for children and for, in federal nutrition programs.

We've seen a lot of positive movement in that policy space, certainly immigration. I know you have a committee working on that and continues to be on the top line for everybody.

You know, hopefully it's something that we can continue to move in the right direction. Certainly when we put these -- administrations put together a set of proposals on H-2A reforms, I think we move us in the right direction, but it's not enough. There still need to be Congress to act on those issues.
So again, a lot of things you guys can help us with. A lot of things that, you know, your recommendation's going to be very important to the Secretary to listen to and to review, so appreciate your time to volunteer for this Committee. Happy to answer any questions as well.

MR. WILKINS: Do you all have any information on the USMCA Bill that you could share with us as to --

MR. GUENTHER: Tommy, I mean it's really kind of waiting for the administration and the Democrats in the House to kind of come up with some agreement that they can fine-tune, some of the issues that the Democrats want in the House. I mean, that's the key thing.

Senate's ready to move on it. They've got bipartisan support, but there's a portion which you may have read that the Speaker has put together that is working with the USTR, Ambassador Lighthizer, to come up with some changes that they would be acceptable to them.
And once that's done and they're working right now on this to, it could be as early as September. The administration brings the legislative leverage up to the Hill which then triggers that time period where they have to vote up or down on the bill, Congress does. It's 90 days.

MR. WILKINS: So Mr. Trump backed off a little bit on the Apple and China issue yesterday and curious from your input on your history and work daily on some of the Hill.

Where do you see the collateral damage to some of the things we're talking about in the United States, say from the corn, the pork, the beef, potatoes? Is there any insight you can give us on what the collateral damage to some of this conversation we're having here?

MR. GUENTHER: I think it's significant. I think, number one, I think we're in this for the long haul with China. That's my, a lot of that I think is my personal, but I think that's a lot of you know how to, you know, we've
got an ongoing fight. I think the Chinese are ready to wait it out and see what happens next year. This shouldn't be political so I apologize to USDA for this.

But let's kind of see how the elections work out. You know, and see where this goes if -- but I think a lot of folks who are very reliant on exports to China for a lot of commodity groups and that's the Midwest, and some of our commodity groups are very concerned that, you know, these markets may, it'll be hard to get them back if, when and if there's an agreement for this trade war back and forth.

So I think we have a lot of folks in the grain industry. My wife's in the grain industry. I think we talk about, a lot of people talk about that in that world about will they, will China continue to keep them as markets or reestablish those markets once this trade agreement opens so there's a lot of concern and where does that product go.

There's already a lot of movement, you
know, in that world to shift production to other areas outside of the U.S.

MR. WILKINS: So how would you recommend that we as a Committee look at that for the word fair trade?

MR. GUENTHER: Well, continue to open markets. We got to get away from trade aid. Certainly we appreciate the administration's efforts to send two amounts, two buckets of funding for trade aid.

Some of that has gone to fruit and vegetable specialty crops community in the form of payments, in the form of commodity purchases. But we've got to get away from that. That's just not a long-standing or, you know, a sustaining type of way to deal with trade battles.

So we've got to find and continue to open up new markets best we can. You know, but I think the problem is not just China. We've got a lot of other battles that the administration is fighting right now related to tariffs and challenges. India is a good example.
You know, we need to get some of these bilateral agreements done with Asia, like Korea and Japan, for instance. I know Jason Hafemeister's going to talk to you guys later and shortly, I guess.

And I mean, I think he can fill you in on kind of that view of the administration but I think that we've got to look for alternative markets.

You can't just settle on one market. I think that a lot of folks in the grain industry have gotten it. Once that dries up it becomes a challenge.

CHAIR CARR: Charles?

MR. WINGARD: Robert, you mentioned about we need solutions, not finger-pointing, I think is the word you used. Does United have a proposed solution for these trade issues?

MR. GUENTHER: You know, we're still -- we don't. I think it's a challenge right now to understand when the next shoe's going to drop with the next fight.
This is a very unpredictable environment, we are in trade, that we've never been in in my 20-plus years here that I can remember over the last two to three years.

So it's hard to kind of create a long-term strategy when you're not sure kind of the changes in negotiation strategy that are going on with some of our partners.

So I continue to believe that, you know, we've got to continue to try to open up markets through trade agreements, through, I mean, somebody mentioned a market access program. Allison mentioned the Market Access Program, expanding these programs that allow for increased opportunities in trade. And I think that's our best tool right now, is a new solution to that, Charles.

But that's nothing novel that I, it's hard to create a long-term strategy when you're not sure how, just what the real strategy endgame is for the current, you know, environment we're in. We're just not sure. And I'm just not sure
it's by me but a lot of body groups of trade agreements.

CHAIR CARR: Okay. Go.

MR. ZEA: Donn Zea with California Prune Board. Robert, what was, in your opinion, I mean, there's a lot of discussion about the challenges we're now facing in this chaotic time and we're all looking for solutions.

But how were we doing before this chaotic time, in your opinion? I mean, how were things going, what were the solutions then as compared to now?

MR. GUENTHER: I think that things were going, were doing well. I think we were focusing on how do we reduce the non-tariff, trade barriers. Tariffs were not an issue for us. It was for the sight-unseen sanitary issues that we were trying to bring down and once tariffs were at a good space across the world, and I think those were the areas we were focusing most of our time on, was how do you bring down these fundamental trade barriers, as we call
them?

And they were areas related to pest
and disease sometimes. Sometimes they were
quote-unquote, made up to try to block product
kind of going out from the U.S. to other
countries. Some of it was safety-related and you
had challenges there from other countries.

And these were things with more
technical challenges that we were fighting
basically by commodity, by commodity. The tariff
stuff then when it started kind of going back and
forth, you know, changed that dynamic that we
just got to get back to where we were and then
have those fights.

And a lot of that could have been
addressed in some of the trade agreements or new
trade agreements. We could be pushing for the
Trans-Pacific Partnership. The TPP was one area
that we thought was moving in the right direction
and then of course we pulled, the United States
pulled out of that agreement in 2017.

So but they had some really good
strong sanitary and phytosanitary provisions that were transparent that required you to really justify it scientifically why you were reducing, people were blocking product coming into your country and that was like around 65 different countries were part of that.

Mr. ZEA: Okay.

Mr. Guenther: And it was going to, you know, and we unfortunately pulled out of that, so. But that, before it was really the technical areas that we were facing on all trade. Hopefully that answers a little bit.

Mr. ZEA: Okay.

Ms. Harper Larsen: Good morning, sir.

Mr. Guenther: Good morning. Good to see you.

Ms. Harper Larsen: I think we can all say that NAFTA has failed us as the American producer and we haven't been able to actively police it.

And with the fact that we all do need to come up with solutions but we have a shortened
timeline. We're talking about September time frame, maybe October time frame, to be able to give the American producer a leg to stand on because he's on his knees right now.

With that in play, if we allow a seasonality provision in law, H.R. 101, S.B. 16, we could not enter into an agreement, correct, that would not have that provision, is that correct?

MR. GUENTHER: It would be our understanding that, well, during the negotiations before the agreement was signed in last year, the Canada and U.S., or excuse me, Canada and Mexico refused to accept a seasonality provision in the USMCA agreement.

So if that was reintroduced, it's unclear, probably most likely they would push hard back at that being part of it because the agreements have to be pretty much simultaneously agreed to or, let me back up. They must be, you know, consistent between the --

MS. HARPER LARSEN: But currently when
those negotiations, when our folks went into those agreements in Mexico City, they didn't have any legal teeth. They said, this is what we want but they didn't have any legal teeth to say this is what regulation says.

MR. GUENTHER: Yes, I think I understand that question. I think that's right.

MS. HARPER LARSEN: Can you give the Committee a little bit, because I know United was at the table and at those meetings, that was an 11th-hour discussion. You know, seasonality was in the USMCA provision.

MR. GUENTHER: Mm-hmm.

MS. HARPER LARSEN: Can you detail to them what we were exchanged for?

MR. GUENTHER: Well, I don't think we were really at the table. I think we were certainly, I mean, I certainly, so you got, some of you may know, Bret and I serve on the fruit and vegetable industry, excuse me, the USDA Fruit and Vegetable Trade Advisory Committee.

So there's a different advisory
committee where trade is based on different commodity groups. So there is a Fruit and Vegetable Advisory Committee on Trade to the Secretary.

And so as part of that group we as a committee did not support; we encouraged the USTR, the trade rep, the trade negotiators to not include a seasonality provision but to find other solutions, to Tommy's point, to address the needs of the current domestic workforce, or domestic, excuse me, domestic industry.

So that then, the negotiators for the U.S. then, right, were kind of put in a position where they couldn't push as hard as they were initially.

So is that, I mean, so basically they put in a new proposal --

MS. HARPER LARSEN: Is there a new committee makeup now though?

MR. GUENTHER: -- Canada, U.S., Canada and Mexico disagreed or said hell, no, we're not going to do that.
MR. GUENTHER: And then they pulled it out of the agreement.

MS. HARPER LARSEN: But we were exchanged for auto, correct? Automobiles?

MR. GUENTHER: I don't know that.

MS. HARPER LARSEN: Can you talk to them, because a lot of people might not be --

MR. GUENTHER: I can, yes.

MS. HARPER LARSEN: -- familiar with USDA's trade committee?

MR. GUENTHER: Mm-hmm.

MS. HARPER LARSEN: And what its current makeup is?

MR. GUENTHER: Sure. So I don't know how much you're aware of this, but for a long time USDA and USTR had a series of technical trade committees as well as a, what's called the Agriculture Policy Advisory Committee on Trade, which again advises both USDA and USTR on trade issues.

And there's an overall committee and
then there's several groups driven by commodity
groups. So there's a fruit and vegetable one,
there's a grains, there's a dairy one, there's
several others, Chemical Ag retail farm inputs.

And those groups then break up into
meet two or three times a year and we're also
have weekly or monthly discussions with U.S.,
with USDA-USTR about some of the language that is
in the different agreements or proposed
agreements and we're allowed to comment on those
before the public does.

But those are all kind of private
conversations or secret. We're not allowed to
publicly share that information. So it's quite a
process compared to what you guys probably have
to go through for the Committee. You'd get on
the committee.

So anyway, that's kind of, Jason again
is part of that group who helps guide us. So it
could be, if you want to, you know, understand
the structure of that he might be a good person
to talk to about that as well, kind of tell you
about how that process works.

But it, yes, I mean it's, they're, again, it's focused on trade. Some in this committee are very focused on just trade and all the trade things going on with the U.S. and other countries.

MR. ERICKSON: I have a question for you. This is a tough topic, the trade issue. One of the things that, you know, there is a lot of us that, like our company, you know, we're primarily a domestic producer, a gross shipper.

We probably grow, pack and ship 85 percent of our product in the U.S. We do import some product out of Mexico to sustain ourselves when, you know, we move from Texas to New Mexico or Georgia and then up to New Jersey.

And then we use Mexico as a bridge to help us kind of, and then we do some work in Peru to kind of complete a cycle so that we can be a year round supplier to our customers.

We're also not, you know, our owner and our company, you know, it's not to say that,
you know, we're not too excited when Mexican
product is coming in at the same time that we're
producing product because it, you know, it's more
expensive, frankly, for us to grow.

But my point is, you know, maybe as a
group and an industry I really believe we should
be putting more pressure on the buyers and the
retailers to support first domestic production
when possible. You know, we sell a lot of
product. We export a lot of product to Canada.

And the Canadians do a tremendous job
of protecting their own seasons. When stuff is,
when Canada is in season you can't get in. They
support Canada.

It's not by law or regulation. They
support Canadian. And it would be nice for us to
find a way to, you know, be united. It's tough
to, you know, you don't want to tell your buyers
hey, you wag your finger at your customers.

But, you know, as an industry it would
be nice if we could find a way to collectively
say, you know, the cost of labor is going up. A
lot of us are having to go into H-2A.

We're competing with, you know, we talk about fair trade. Our buyers should be recognizing that and they can say well we support local. You know, we believe we support domestic.

But at the end of the day, you know, it's about the cost and a lot of them, you know, are sourcing the lowest cost option. And considering the circumstances that U.S. producers are in for a lot of reasons, a number of which we're discussing here, it makes it really tough for us to compete on those items that we're growing here in the U.S. and that are coming from somewhere else at the same time.

MR. GUENTHER: Yes, Bret. I think you're spot on. This is the way we've got to as an industry try to work in partnership with our customers to figure out better ways of supporting the domestic industry but also making sure obviously that consumer demand is met.

Market access is important. You know, the U.S. consumes I think, Allison mentioned kind
of the increase of consumption in certain commodities. How do we address that from a domestic standpoint but also make sure that consumer demand is met?

You know, I think, you know, we do have some very progressive market access in our world, fruit and vegetables in terms of product coming into this country. You look at the increase.

But that also means a lot of demand is put on there, in terms of demand from the consumers. You know, we've got companies now in the U.S. who are investing in other, as you mentioned, other countries as well because of the demand.

And a lot of that's coming from the customer side, the customer base. And in terms of being a one stop shop supplier of product, peaches, collards, whatever you want to call it, you know, and how do we meet that customer, I mean consumer demand but also that customer demand.
And you're right, that's an industry discussion that we need to try and figure out what's the best way to approach that because we have not necessarily addressed that directly as much as we've let the marketplace work it out.

MR. ERICKSON: Like school, you know, school lunch programs it's easy to find ways to incentivize them for school lunches to buy American first. And believe me, I'm a fan of having, my wife wants strawberries all year round.

She wants blueberries all year round. She wants tomatoes all year round. To Allison's point, we are eating a lot more tomatoes than we did five years ago in our household.

Avocados, you know, there are a lot of examples. And I want options at the grocery store. I want everything available to us 365 days a year.

But if we can find ways to incentivize school lunch programs maybe there's ways we could look at to incentivize regional and national
retail chains to source local or domestic leaders.

MR. GUENTHER: I agree. And, you know, one of the tools we have as far as I'm concerned that we need to probably have a more strategic plan on is the Specialty Crop Block Grant Program.

That is supposed to be incentivizing, supposed to be marketing, promoting fruit and vegetables across the country. I know let's take my state we've included a multi-state that you can do more regional national approaches to it.

But I think it's something this committee ought to spend a little bit of time on with AMS as they run the Block Grant Program to understand how the states are using that funding to promote, to help the domestic industry because that is one of our best tools in terms of domestic support.

And, yes, I mean there are some good projects going on the state by state level. Colorado Department of AG is here somewhere.
But I think that, you know, it's something I think we ought to think about, especially this committee ought to think about is how can we encourage states to continue to have this, you know, because it is a federally funded program, $85 million a year now.

And it's been, you know, it's a good vessel. But that really was focused on increasing domestic and supporting and marketing domestic product.

MR. WILKINS: This leads a little bit into what I challenged us to work on tomorrow is that, you know, 21 years I was director of produce procurement for United Supermarkets in Lubbock, Texas.

And if it was grown in the United States I bought it. I didn't buy nowhere else. So I'm not saying about what anybody else does. But, by God, I did that, okay.

And I agree with it 100 percent. But we are in a time where we're seeing investment firms sucking up companies, all these companies
that are buying into what we're doing.

And I challenge us, you know, I did what you asked, okay. But I think the solution to this is prohibiting the dumping or anything that is a barrier to fair trade, okay.

And I just, I question that seasonality goes far enough or there's not a solution in that. It's been balked at already. We have to do something to give the American farmer every chance he can.

You guys need to and you can do it right now. But I believe that a lot of domestic produce people in my position in the past understand that and do that.

But I think from our tier we've got to look at helping with more of the things that we do to hurt, you know, the dumping issue is one that, when the market is $5 on anything nobody makes money, nobody.

And the consumer, quite honestly, don't even get the benefit of the deal. You know, the question and I don't have all the
answers and I certainly have got more questions
and I am way too passionate about this.

But you put a tariff on something
where does that tariff money go? I know it comes
out of my pocket paying more for product coming
in on the tariff issue.

I don't think that's a solution. We
are smart enough in here to come up with more
solutions. But I really feel like we owe the
solution to be more than just agreeing that we
have a problem.

We've got a problem. How can the
intelligence on this committee come up with a
solution?

MR. BOWMAN: And I'm under the
impression that there's tax incentives to
retailers in Canada to buy Canadian product when
it's in season there. And that's one of the
things that promotes them and our trade
representative might be able to confirm that.

I mean, Canada protects its growers,
I mean, the dairy industry, the wheat industry.
I mean, I was visiting growers in Canada a couple months ago and I don't know if everybody in this room knows.

But the U.S. dairy industry is in horrible condition right now. And to see new dairy farms being built in Canada was just mind boggling.

I do believe they have support programs to get the retailers to buy Canadian through tax incentives. But I'm not 100 percent sure.

CHAIR CARR: I have a few comments. There are many of us here that are members of your group. And I don't know if a national organization has done more to actually try to expand the consumption of fresh fruits and vegetables than the United States, very commendable there.

But looking at this and the couple of the issues that we obviously disagree on. So we have provisions where we give federal dollars to, you know, support school lunch programs and
everything like that.

And we've obviously got importers
being product in here. These are being used to
provide those. Where does United stand on the
Buy America provision?

MR. GUENTHER: We support the Buy
American provision. We always have. And it
mushroomed at some point. Certainly, you know,
the Child Nutrition Reauthorization policy, but
that bill is now up for consideration in like
September.

That's going to be another area where
they can strengthen the Buy American provision.
So your recommendations will be helpful to not
just the USDA but even Congress to figure out how
that can be strengthened in the way that makes
sure that schools and school districts, in
particular are applying that provision.

I know we've had a lot of challenges
in California. That's kind of the tip of the
iceberg with the Chinese peaches that were bought
by the Sacramento School District.
We can't have that happen, period. I mean, you know, Steve knows this, being part of the industry, you know, we just can't have that. We're not going to support that.

But, you know, I think that's another opportunity. But anyway, but that's kind of, that's what we want.

CHAIR CARR: So we already discussed, I mean we all know what NAFTA has in place in certain parts of this country in particular the southeast, Florida would probably be number one where tomatoes, same think like the peaches.

Like before NAFTA there was other commodities as well. But we all knew there was a problem with that and so we came up with this regional language.

And then that got removed through negotiations. But United has not taken a position, your position is not to support regional because it could change the agreement that's in place.

How do we then understand that, work
around that or work for another solution going forward?

MR. GUENTHER: Well it goes to a little bit of Tony and Richard brought this up too. I think we feel and I think Allison even touched on this, I think we feel, well we do feel that the USMCA in its current state is a good thing.

You mentioned the dairy industry. They didn't get what they wanted in the USMCA. They gave more access to Canada yet they are supporting USMCA as well.

But in terms of the national bearing organizations, there is, negotiations at that point. But I think that we have got to find different ways to help invest in our domestic industry to help them continue to thrive.

And again, that's part of what we do in the Farm Bill. It may not be enough. We may need to think differently. We may need to redirect some of the programs that we thought were going to be useful.
You know, ten or 15 years ago when we started this Farm Bill effort to help enhance the Farm Bill, you know, the Farm Bill in our world was there for 60, 70 years. I'm very interested in, I mean obviously, you know, we have a test case going on right now with tomatoes.

And it is going through now the process of whether or not, you know, there is funding. And the primary decision by IDC is there was.

So there is a process that is going on as we speak. It may not be the best process. It may not be the most direct process. It took a while.

So if this case continues and there's no agreement, you know, we're going to find out real quick what our customers are going to react to that in terms of supply.

You know, how is industry going to change if it does at all because of the increased tariffs on tomatoes coming into the U.S.? Does this go down the supply chain?
Do consumers and retailers and other customers push back at it? But, you know, we're right now, you know, this is a test case that may drive us into a different, at least my view of it is, if the case goes forward and there's a final decision -- and it's applied to domestic industry, how does the domestic industry, does that help them or does that really kind of harm in terms of losing their opportunity for more market access domestically?

We'll see. I mean, to me it's, you know, the process is moving forward. It's been clunky. It's not as efficient as the regional. It's easy to file a complaint or file a suit as the seasonal perishable provision would.

But, you know, the tomato process we're moving forward. Allison may kill me. I mean, I don't know what else to say about it except, you know, we're watching this. We're not involved in that issue.

We're not taking sides on that issue. We've made everybody mad every time we say
something about the tomato issue, whether it's the domestic industry or the Mexican industry.

So we are staying out of that. But we still believe USDA is still, to your point about enforcement it does enhance enforcement. It does have better sanitary -- provisions that were not in the original 1994.

Sure that's a 30 something year old or 40 year old trade agreement. There are going to be agreements made. We've had a lot of changes in trade during that time.

So, yes, we were supportive of the negotiation.

CHAIR CARR: But 25 years later we knew the biggest problem of NAFTA is we didn't have a regional ability to buy --

MR. GUENTHER: That's true.

CHAIR CARR: -- and the industry said we need this. But unfortunately, it was traded away again. And that particularly impacts about five southern states more than it does everybody else.
My last comment or question is and Tommy brought it up is collateral damage to these trade situations. And we're witnessing it in the industry right now.

So cherries lost its ability to market to China. Twenty five percent of domestic production of sweet cherries goes to China or used to.

USDA and the administration put cherries on the trade mitigation list and farmers got direct payments and such is that. The intent was they would be able to go establish other markets.

Unfortunately, what they did is they then decided to market that crop back within the United States. And peaches right now are suffering the lowest prices we've ever seen 2004 because cherries had a year to prepare to market their crop plus they're getting federal funds to help market their crops.

So there is going to be a ripple effect to other commodities that originally we
never thought were going to be impacted. But there is a huge impact.

MR. GUENTHER: I apologize I did not, I mean you're right, I mean we're seeing that in these markets. Apples is another example. Some of the states outside of Washington State are experiencing low prices.

But you're right it is not, as I said it's not a good solution to this trade mitigation, period. It's just not. It's a band-aid. It's a short term fix.

I don't think any of the programs, in my personal opinion, are really designed to help our industry and the way our industry works efficiently. I know that some have been happy with mitigation payments but also the purchases but some are unhappy because of the way this process works.

It just doesn't work for them. And the way we are forecasting compared to some of the other crops who got the bulk of the trade mitigation, we do have a small group in our
association world that are looking at what would be a better solution if we have a third round of language.

So let's just say I think there may be a third round of trade mitigation. And outside of the scope of the three programs that they put together and -- but we've got to come up with, to your point, commerce we've got to show that USDA administration saying this is just not working for us, that we need some other things.

CHAIR CARR: That's the reason I wanted to raise it with you. Tomorrow the group can talk about it. But so there is going to be this ripple effect.

Other commodities are going to be affected. And we are going to start working on that now to understand those impacts because it's easy to say China has got a lot of the cherries account so obviously they were impacted.

But now what is, what other things have been impacted? Grapes is another one is right now potentially going to go through a
dumping case potentially as well.

There's been a huge disruption due to these trade wars and they're only going to get worse. And again, back to the comments you made we've lost some provisions to help certain parts of this country to defend themselves.

So again just want to raise that with our organization, but again, commend you for everything you all have done to increase consumption.

MS. GLEASON: I have one last question. You mentioned the Child Nutrition Reauthorization Act. And I'm not sure if that's been discussed in any of the subcommittees.

But I'm just wondering if you have any ideas or suggestions that this committee can use to make sure that local production is prioritized?

MR. GUENTHER: So Steve is going to like this question. He knows what I'm going to say. Well so just to give kind of an overlay of China. So the bill was supposed to be
reauthorized in 2014, is that right, I think it was '14 or '15. They did not get to it.

It's not like at the end of the day like a Farm Bill and other laws. So the current programs continue to move as they are for, as the 2010 bill was written or law was written.

So there is a renewed effort in this new Congress, the Senate in particular. Senator Roberts, the Chairman of the House Senate Act Committee Ranking Member Stabenow said they want to get this done.

Some of you probably know, Senator Roberts is retiring. This is kind of one of his things. He's got the Farm Bill under his belt. His last one he wants to get this bill into reauthorization.

We expect they are going to introduce a bill in the September time frame when they get back from the recess, the August recess. So in terms of programs, so I'll start with the easy ones and I'll get to the harder one at the end.

As you know, the last one, it
increased -- servings increased of vegetables in all forms by a cup. So half a cup for breakfast, half a cup for lunch.

So that was a good win overall for the entire industry. Another thing we're focusing on is the grants to get more money into the equipment grants for schools.

A lot of schools are looking to, they have access to more fruits and vegetables. They need infrastructure. And so that's another area we're focusing some time on.

The one that is near and dear to our heart and some here and some not, one section here it's in your heart, is the Fresh Fruit and Vegetable Program. So Steve and I have had many discussions over too long of a time.

And this program basically is a program that provides a fresh fruit or vegetable snack during, not during lunch or breakfast but during the classroom environment. It is, started out as a pilot for states. Now it's nationwide.

It has about four million kids who
participate in the program. But there is a push to make it all forms, not just lunch.

You know, part of this that there is a significant portion of the school feeding programs that accept all forms and this program is a small, little program that really should be left alone and helps complement some of the things that are going on in the school lunch.

Steve disagrees. Some of you others may disagree. But that's fine. We -- and that's fine. And it's been an ongoing battle. It has probably been one of the stickiest battles that we've had over the years.

When you're thinking about this program it's authorized under the Farm Bill and nutrition. So every basically two years we kind of come up with this interesting debate on Capitol Hill about how the program has been run.

So, you know, that's kind of the biggest issue for us as United. But certainly this committee, you know, if you address nutrition or nutrition issues, you know, it's
going to come up in this space.

    So, you know, so that's, those are
probably the three big things. The half cup
increase or the cup increase, make sure that
doesn't go away.

    That helps everybody which the
equipping grants would be the third or second
area we would like to spend, you know, get that
permanent in the Child Nutrition Reauthorization.
Right now we have an annual appropriation, sort
of an annual funding for that program.

    We get money each year and we have to
ask the appropriators. This would make it
mandatory money for the equipping grant program
schools can apply for and then the Fresh Fruit
and Vegetable Program.

    MS. GLEASON: Is there anything in the
current, in any of the current programs that
prioritizes local, like American production?

    MR. GUENTHER: So in school there is
the farm, well actually more through the Farm
Bill than it is Child Nutrition Reauthorization.
MS. GLEASON: Okay.

MR. GUENTHER: If you want to know about this more I mean I could, you know, I know you were speaking with Jennifer from our team later. She is our nutrition policy expert.

She can come and talk to you about that. Most of that is farm, school. There are some Buy American local provisions. But it's not as prevalent in Child Nutrition Reauthorization as it is in the Farm Bill.

CHAIR CARR: We have time for maybe one more question.

MR. ZEA: This is more of a statement than anything. But it always surprises me that the issue of price and elasticity does not come up more often.

When you're seeking solutions and you ignore that, we continue to try to find these magic pills that are going to sort of separate us from the reality that, you know, in our case our prices are up to 100 percent greater in certain markets than Chilean, for instance.
And there's only so much a consumer is willing to spend, especially when the quality, you know, you can differentiate all you want and for good reason. But in some cases people don't have the power to distinguish between what's good and what's not.

And I tell our growers all the time I have no idea how you guys succeed because the amount of inputs anywhere in the U.S., certainly in California the amount of input that you've got to put into a product to send out in the market and slug it out with a competitor that has a third of them or less, it's remarkable we succeed the way we do.

And so programs like NAP for us and an export level are absolutely huge. Innovation grants, all those kinds of things that make us smarter and better are absolutely significant.

But ultimately, you're still going to have to ask those developing markets, those mature markets or even our domestic markets, you're going to have to ask those consumers to be
able to raise their game, make more money, spend more of their discretionary income on food.

And that is a big ask. And I don't know that this committee is ever going to find a solution to it.

MR. GUENTHER: I think it's, when we are challenged with it all the time. I mean we are in committees and boards and we have, I know other groups have. I mean it's a tough, you know, how do you find a solution to that?

It's replacing costs, you don't like blueberries, buy strawberries. You know, consumers just, they have a lot of, we spoil the consumers on levels.

And, you know, we're now seeing that whether it's the Chinese right now are saying don't buy anything American. You know, I don't think we'll ever get to that point here in the U.S.

But you're right. I mean it's something that I don't know how you, it's hard to find a solution to that. It's really hard to
find a solution.

CHAIR CARR: Robert, thank you. Did we have anybody else for public comment?

MR. HUGHES: No, additional public comments. There is one statement that I want to make. When Robert talked about the ATAC's, the Agricultural Technical Advisory Committee.

That set of committees are a factor just like you all. And so if the Trade Group for the committee as the whole wants to coordinate or collaborate with ATAC let me know and I can reach out to the group federal officer that officially is over that set of committees.

And the rules on those committees occur under FAS, Foreign Agriculture Service.

MR. WILKINS: We need all the collaboration we can. So I would love to see us work with them on that.

MR. HUGHES: Okay. We can coordinate after.

MR. WILKINS: You can put that on your to do list, the one, two pages you have to do.
MR. HUGHES: Up next, we've got
yourself given the trade war. Just a sort of
formality about each of the workgroup
presentations that are going to be happening
today, there is need to look for discussion on
the recommendations in the approved period
because you guys are going to be going into your
workgroups tomorrow to refine, retool and make
recommendations that are given to them.

And they are good to go. But all of
the final authorization activity will take place
after presentations today.

CHAIR CARR: And just to be fair, all
the groups and all the speakers we're going to
adhere to the schedule as best we can. So, you
know, questions and answers to the speakers just
understand if we reach a point because we have
other speakers to come and may have more
questions, we will have to move on and come back.

So if we don't get questions answered
today then we can do that tomorrow. But we want
to give all the speakers an appropriate time to
speak and then have everybody have the same chance to ask the same questions then or the same amount of time.

MR. HUGHES: And if, Tommy, you finish your presentation early the next presenter is going to be Jason Hafemeister and he is on his way. And so if he's a little bit late we'll move to the break and start when he arrives.

MR. WILKINS: So a question, Darrell. I wish somebody else would have went first, but here we are. Am I supposed to read this? I'm just curious what --

CHAIR CARR: Well, our format is we're going to put it up on screen, yes. But maybe we're just going to read what has been, the recommendation you provided.

Again, we're not going to dive into discussions on those. That's just going to be the current state of where that working group is today.

Then each one of the working groups has at least one technical speaker that will
speak to that topic. We will have questions and answers of that speaker.

And then again, take all your thoughts, your comments and go back to your working groups tomorrow. So the only thing we're doing right now is each committee is just basically saying what you said or what you put in print.

MR. HUGHES: I am asking each committee, the subcommittee lead to come up to the mic so that those members of the public can hear you. The last time you projected and it worked well.

This time it's difficult for folks in the gallery to hear.

MR. WILKINS: First of all, I'm Tommy Wilkins. And I'm leading the Trade Group. And as you've already seen today, this is a very emotional, huge topic on the plate today.

And I want to applaud everyone on the membership of this committee. I believe their heart is good and I believe we're here to form
some solutions.

And so I want to thank everyone on there. I think the objective statement is around the first lines. We're, the Fruit and Vegetable Industry Advisory Committee recognizes the importance of trade in today's economy and how particularly fruit and vegetable industry.

And there are many ramifications to exactly how that works. We're getting more and more competition every day. We want to protect our American industries.

And so, you know, our objective is the implementation of these recommendations with leave not only to increase production and consumption of domestic, American fruits and vegetables on all farms, fresh, frozen, canned, dried and 100 percent used domestically and open doors around the world.

So we're going to the recommendations. The first one that we have is Buy American.

We've heard about Canada subsidizing or giving tax incentives. I think all of this
is, there's many, many things that we need to do. But we need to enforce the Buy American requirements.

How we do that is a subject to, you know, our finding that we're subsidizing the school, for one instance the school lunch menu but then they're buying foreign products. We just want to reiterate that we want to buy American in as many things as what we're doing. A tremendous amount of information in here and I'm not going to read it word for word. So our recommendation is that the committee supports the Buy American agreement for school food purchase enhanced by Section 4207 of the Agriculture Improvement Act of 2018.

The committee requests that the Secretary consider meaningful improvements in the guidance for and enforcement of provision and ask the Secretary to keep the committee advised of his actions.

Recommendation revisions include the following. Strike the significant cost
difference differential language from the Buy American exceptions provided the schools by this exemption is significantly too ambiguous and does not recognize the amount fruit and vegetable options that are available should desired first choice be cost prohibitive.

Require public notice when schools elect to purchase foreign source food product instead of domestically produced including and requiring the schools maintain documentation to justify foreign purchase of fruits and vegetables over domestic.

For instance, whether alternative supplier sources were considered, whether bids were sought at the best time of the year to allow domestic participation, whether substitutions were considered. Applesauce instead of peaches, pears instead of the mixed fruit, et cetera.

Establish financial commercial restricted from supplier, penalties for food distributors that misrepresent their food products or boost with foreign source products
for contracted domestic food products.

So the next is our trade promotion.

And our recommendation coming from our committee is that this workgroup recommends to the Fruit and Vegetable Industry Advisory Committee that issued and informed the Secretary of its concerns and requests that the Secretary make our position known to the President and Congress.

The critical importance of ensuring that the export market promotion programs continue to be made available to U.S. agriculture to successfully compete against foreign competition in U.S. and export markets and that the available funding for the programs be increased to offset the imbalance of trade restrictions and the impacts of trade deputies.

The Trade Group also recommends to the Fruit and Vegetable Industry Advisory Committee that it should inform the Secretary of its interest in developing sustained U.S. grown food program that offers additional promotional support for helping all agricultural cooperatives.
compete against foreign competition within the United States.

The USDA needs to develop trade agreements with Mexico, Europe, Peru, Brazil that work for U.S. farmers to give ample opportunity to survive while ensuring year round supplies.

The recommendation statement on seasonal protection on fruit and vegetable quota on the imports of fruits and vegetables.

So in the, yes, on the recommendation subject was the protecting the USDA grower. The USDA needs to develop trade agreements that I spoke about in the recommendation with the seasonal protection on fruit, vegetable quotas on imports on fruit and vegetables.

So is there any questions or comments about what the Trade Group has looked at? That is a quick version.

CHAIR CARR: We're going to hold the questions and discussion until tomorrow.

MR. WILKINS: I was supposed to say that.
CHAIR CARR: Yes.

MR. HUGHES: All right. So the next speaker on the schedule is Jason who has not arrived yet. And so we're going to go ahead and break early if you want.

CHAIR CARR: That is perfectly fine. So take a 15 minute break. If not, he could come down to the next committee meeting and read that.

MR. HUGHES: So we'll take the 15 minute break and after that if Jason is not here we'll move on to Production.

CHAIR CARR: So let's be back at 10:25.

(Whereupon, the above-entitled matter went off the record at 10:10 a.m. and resumed at 10:25 a.m.)

MR. HAFEMEISTER: Great, thanks for having me this morning. Welcome to our visitors, so welcome to D.C.

My name is Jason Hafemeister. I serve as the Secretary of Agriculture counselor on trade. I'm originally from California so I'm
close to California.

    Came out to Washington almost 30 years ago. I thought I would stay for one year and here I am, still here.

    I've worked in FAS, Foreign Agricultural Service over at USTR, the Trade Representative's Office in the private sector and now serve as the Secretary of Trade Counsel. I've been involved in trade policy, trade negotiations, market analysis that whole time.

    So while my roots are in the lettuce industry I've worked across all sectors of U.S. agriculture in trade policy, trade negotiations.

    And so what I thought I would provide to you is sort of an overview of where our trade policy is on agriculture, some of the big issues we're facing, some of the hot issues of the day just to give you sort of a broad perspective.

    And then would leave up for you to interrupt me if you want to focus in on a particular question or issue of concern or we'll leave some time at the end where we can have more
But this is meant to be a conceptual, broad based overview and I can try to handle whatever specifics you guys have the best I can when we get to that. So I think what I'll sort of focus on is my remarks first on the agenda how trade is important to agriculture.

And agriculture is important to trade. Second, a little bit about the ongoing trade issues we have right now. You know, China, Japan, and Europe, USMCA so this sort of update, put those in perspective.

And then talk a little bit about things we're doing to find more customers overseas for our farmers. But to step back, I think one way to think about the current moment we have is how are we organizing trade globally because we've got farmers all over the planet who want to grow.

Many of them are surplus producers. Many of them are fine customers in other countries. How are we going to organize this
trade so producers and consumers can most efficiently and fairly get to business?

And so that's, I think, sort of the underlying theme that's behind a lot of these specifics. And I'll talk about that as we go through it.

So next slide please. So first of all just to talk a little bit of why our culture is so focused on trade. What this chart here shows is the source of gross cash receipts and where do our farmers get their money, right?

Most of it comes from the market. If it's in crops, if it's in livestock. This comes from the sales price and the volume that they sell.

And so we -- and you'll see in the report about having a strong producer economy, strong rural America, we are very interested in ways to strengthen income for farmers.

And so really the most effective way to do that is to help them get a better price when they're selling in the market. Payments are
important.

The last few years, even more important but they are not the difference makers. It's the market income that our farmers make that matters.

And so when we think of having to help our farms get better prices one of the best ways to do that is to help them access more customers, to expand demand, to increase the amount of people who are interested in buying their product.

And so that's why we're so focused on trade. Next slide. So the process, U.S. agriculture generally we are very competitive producers. Nearly all sectors of U.S. agriculture are exporters.

That is, we're looking for customers overseas. And in most of these cases, nearly all cases we export more than we import which is a sign of our competitiveness, we can out compete other groups.

And even in certain areas where we are
net importers, where our imports are greater than
our exports, there's a lot of, there are other
factors that frequently relate to that. So we
import a lot of fancy wine in this country.

    We make great wine too. But there is
just great demand for fancy wine. We import
stinky cheese. We're massive dairy producers.
We export a lot of dairy products.

    But people like French cheese and that
stuff. We import a lot of tropical products,
things that we don't produce here, pineapples and
coconuts and coffee.

    And some of that competes, you know,
sugar we're producers. Of course, there's
counter-seasonal trade so that in the winter we
import a lot of fruits and vegetables.

    So one of the conclusions I thought
this slide illustrates is that one of the reasons
we hear so much from our farmers about trade is
because we are not only trade importers for farm
income, but we're competitive producers.

    This agriculture is looking for
opportunities to compete and perform. Next slide, please. And another illustration of that is how for certain of our sectors exports are a very large share of where the crop goes.

You know, half of our wheat, half of our soy beans, half of our rice is exported. Around 80 percent of our tree nuts are exported. You know, 20, 30 percent of many fruits and vegetables, dairy products, meat products they're found, customers are found overseas.

And so losing those markets is a real, it's really a problem for us and we're finding that now out now because with China we're losing a big market that a lot of times we don't have alternative places for that product to go.

It sits on the domestic market, drives down the price, that drives down farm income. So really we have organized in many ways our agriculture around the fact that we're competitive surplus producers and we need to find customers overseas.

Next slide. Now, I would like to
remind people that in terms of policy, what can we do to help farm income, what can we do to help producers? I'm very interested in things we can do to help make better customers.

How can we have more, how can we help people in other countries increase their consumption of agricultural products because we stand to benefit?

What this chart here shows is what happens with a marginal dollar, what a consumer does with it. So you get me here USA, you give me an extra dollar, what am I going to spend it on?

Well ten percent of it will go to food. But the rest of it I'll waste on things like education, housing and transportation and all this.

You give someone in the Democratic Republic of Congo an extra dollar and they'll spend more than half of it on food. And so that's a great thing.

Obviously we want people to have
better lives, to be eating more if they need more. But we in agriculture, we are beneficiaries of that. That increases demand for our products.

This helps supply new customers, helps bid out the prices we get. So underlying our policies really has to be how do we activate these 95 percent of the world's customers who are outside of our borders to make them more effective purchasers of our crops?

Next slide, please. So one way to think about all this is how we organize trade.

We'll get to the policy here.

And in my mind, the way to think about it is, so we had this really amazing change in the world population and economy 75, 80 years ago coming out of the World War II period.

Well if you look back on human history you can quote Thomas Hobbes, I think his name is, that most people lead lives that are short, difficult and painful or something like that.

And that's the history of most humans, right.
And what this chart here shows, the red area is the number of people who live below the poverty line, who live in extreme poverty. And for most of history that's everybody.

Most everybody is living in extreme poverty. And it's very interesting to see here is the Industrial Revolution starts and all of a sudden you start having more people leading more comfortable lives.

But then here we come coming out of World War II the whole narrative of humankind has flipped. Now, we have less people living in extreme poverty than ever before and we have all of these people here who are living outside of poverty now.

So it's a great story of accomplishment. Lives are better than they have ever been and why has that been. I think a big part of it has been the post-World War II economic system that we set up which was founded in security.

We have NATO. We have the United
States guaranteeing the peace. It was bounded in open markets.

So we set up the GATT within the WTO which said we were going to allow people to trade with each other more freely and that will encourage people to invest and innovate and develop new technologies and increase their production because they will have customers.

And so coming out of that we've got this amazing boom of the economy and lifestyles. And we as farmers have been the beneficiary because we chart against that.

Here's U.S. ag exports, right. As we have more people living longer with more money in their pockets they're consuming more of our agricultural products.

So it's a story of people doing good, lives are better and farmers are doing well when that happens. So I think that's really fundamental to me when we talk about how we want to organize trade.

Next slide. So one indicator of this
has been tariffs and taxes that go on imported products. So over time if you go back here to the GATT in 1945 and then the WTO formed here, NAFTA comes in here we've generally seen trade become more free.

And the reduction means that tariffs is an indicator of that. That's a sign of our success. Tariffs have been coming down and that's helped foster this economic growth.

So next slide. As we look forward to customers, you know, we still see a lot of potential for gains overseas.

It's interesting, this data point, September of 2018, that's when we flipped over from having more people who were poor or vulnerable on the planet to now there's more people who live in middle class or rich economic situations, right.

And the next slide shows that we expect that trend. So we see growing middle class or growing wealth globally which means more market opportunities for us.
So as surplus producers, as people who are competitive producers who are looking for customers, there's a lot of opportunity. All right, next slide.

So now we're coming back to some of the more current issues. So this shows total U.S. agricultural exports and billions of dollars for our top five markets.

You know, the top six markets that we sell to U.S. agricultural exports account for about 60 percent of total ag exports, right. So one of the lessons for us is don't screw it up with the big markets because they're important. They're large.

And the good news is that for four of the five despite all of the trade conflict and the uncertainty we are holding together pretty well. We've increased actually sales to Canada.

Mexico, Japan and the EU in fact has gone up slightly as well. So that is despite all the threats about trade wars, those markets are holding.
Obviously, China is a different story. That's where the trade war is hot and heavy and we've seen the effect on our sales.

But one point is that these big markets matter a lot to us. We spend a lot of time, how can we keep what we have or try and grow them.

Next slide. So go back, sorry. I skipped a slide. The other thing when we talk about markets is that as important as those big markets are we have what you would call a long tail distribution if you look at our sales.

We sell a lot to these big countries. But we sell to over 100 countries locally, all right. There's over 30 markets that we sell a billion dollars or more to.

And so there's a lot of money to be made in the Philippines and Indonesia, in Vietnam, in Columbia, in, you know, Morocco. So by themselves they don't get up here in these big double digit ten, 15, 20 billion dollar markets.

But that's where we have a lot of
sales and that's where we see a lot of growth.

So as we organize our thinking we want to protect and grow these big markets.

But it's the rest of the markets out there that matter a lot to us. And how can we do markets in the rest of those countries?

Well, we need a predictable, open, market based, rules oriented environment where we're not relying on government intervention, trade wars or threats of trade wars to solve our problems.

We want predictability and certainty in our ability to make sales happen. Okay, next slide.

So let's go here. So let's talk a little bit about some of the headwinds that we're facing in terms of restrictions on U.S. ag exports.

This chart here shows how U.S. products have been affected by retaliatory tariffs by other countries. All right. So because of the steel tariffs we put on other
countries many of them have retaliated.

And because of the China tariffs, the IPR related tariffs we've seen retaliation from China. So what this shows is China is now about there, so over $100 billion of U.S. ag products.

Twenty-two percent of those tariffs hit agriculture. Basically all the agriculture we send there, $20 billion is being faced with tariffs, $79 billion of non-ag exports are being hit by tariffs.

Well, when we had the Mexico tariffs in place for steel they targeted agriculture. Seventy-two percent of the tariffs they put on ag products.

Canada hit ag somewhat, but they've gone. China has tariffs in place on steel and targeted ag. So this goes through some of the restrictions that we're facing.

Higher tariffs as a consequence of these trade actions and how other countries are choosing to target agriculture. Next slide.

So this is just a reminder, steel
tariffs are still in place. We removed them with Canada and Mexico. But EU, India, China are still imposing retaliatory duties on U.S. products.

And I think one important thing here as we talk about steel, what this chart shows is going back ten, 15, 13 years relative prices of steel. U.S. is the blue, all right. Red is China, green is Europe.

So the U.S. has always been a high cost steel producer, right. For various reasons, we're relatively high cost producers. So our prices have generally been higher than world prices.

We maintain those prices because there are anti-dumping and countervailing duties in effect on some of our biggest competitors, China for example. So there's very little steel in the United States even before all this trade war because we had anti-dumping and duties on them.

So that has helped keep U.S. prices relatively high. But then with the trade
actions, the 232 tariffs we saw a spike in U.S.
steel prices because we were restricting supply.

So that is starting to come back down
now. And as the economy slows people are
figuring ways to work around it. We are seeing
some greater U.S. production of steel as well, as
you would expect, the more money you can make the
more production.

So the steel has been in effect for
U.S. agriculture and really behind it has been
this question of how do we keep U.S. prices high?

Next slide.

So this is one of the effects when we
try and talk about, well, how do we see the
effect of the trade war? So here's U.S. steel
prices again in blue. They went up. Now they're
modulating. One of the effects is that things
made with steel have gotten more expensive. And
then one of the effects is then not related to
steel but more to the IPR, which means prices for
U.S. commodities like soy beans are targeted and
fall. So there's a relationship here between our
higher tariffs and what some other countries are
doing. Next slide.

So we are -- the big story on the
retaliation has been China. So you can see
across all of the products that we export who is
bearing the biggest brunt. So this was last
year's data. And you can see China is hitting
everything sort of blue. But we do see some
pretty important effects from Mexico, Canada and
Europe as well, and now India is coming in. So
we've taken off Canada and Mexico, 232. So
that's good news. But the rest of these are
still in effect.

So next slide. So one thing to keep
an eye on is that we're looking at a similar 232
action on automobiles. The Department of Commerce
has submitted a report to the President saying --
evaluating the national security implications of
imported automobiles to U.S. national security.

And the President is weighing whether
or not to take action like we did with the steel
and aluminum to impose tariffs. And so that's --
I think he got a report in May, and he said he
would decide in six months. So November this will
be a really big trade thing.

What this chart here shows is U.S.
automobile production in blue. And then U.S.
automobile employees in automobile production, so
people making vehicles and parts. And so you see
the recession is here. There's a big effect.
People stop buying cars when the economy is in
recession. But you see that we bounce back over
time. But you also see that and what's really
striking here is the efficiency that we see in
automobile production. It takes a lot less
workers now to produce more output volumes than
ever before. And of course that's part of the
story here, right, is the manufacturing jobs.
There are jobs that support middle class
families.

There are less of them in automobiles
than there were before. Now a lot of that has to
do with productivity, right? We are more
automated than ever before. We are more
productive than ever before. But some of it has
to do with import competition as well. So I
think, I would just start to say that this, I
think, is one of the big factors behind that, the
broader issue.

Next slide. Same idea, next slide.

So what this chart here shows is our top six
markets here. Remember, here's our top six
markets. Remember, they account for 60 percent
of our ag exports.

And so Korea is 6 percent, Canada is
15 percent, billions of dollars. They account
for $83 billion for a total of $140 billion in ag
exports. They are also our top six suppliers of
automobiles, right. So Canada our biggest market
last year was our fourth biggest supplier. They
accounted for 16 percent of auto imports of $53
billion. So we import $332 billion of automobiles
and parts and export to those same six countries
$83 billion. So as we move forward if there is
some negotiation or some trade issues with these
countries, there certainly is an expectation
given the way the countries have targeted ag in the past that agriculture might be caught in the middle of the fighters.

So I think the good news is Canada and Mexico have already negotiated a sort of get out of jail free card. They have negotiated quotas that are substantial. So even if we do impose new tariffs on autos, presumably they've already got a safe harbor. So that's good.

We're negotiating right now with Japan, where certainly their desire to keep the market open for automobiles is a priority. So if we get a negotiation done with Japan, hopefully that will avoid any sort of trade conflict there.

China, of course, we're in the middle of a giant negotiation. I'm not sure how this will change that. We're already putting tariffs on their products. They're already putting tariffs on ours.

Korea has already in the first year of the Administration in 2017, reached a trade agreement with the U.S. that had auto provisions.
So they might be able to argue that they don't --
you shouldn't be subject to any further auto
actions.
And then the EU is probably in some
ways most exposed in that they are a big exporter
to us. We are supposed to be talking about a
trade negotiation, but right now it's hard for
that to get traction.
So auto is the big thing for us,
because we have big trade actions. There could be
some spillover on agriculture.
Okay, let's turn to the next issue
USMCA. You may have heard of NAFTA. The
President has called it the U.S. Mexico Canada
Free Trade Agreement. I'm trying to brand it as
USMCA. USMCA, say it softly. Say it to
yourself, USMCA.
So I put this chart up here because it
shows how and I came to Washington in 1991 right
when NAFTA was being negotiated, and it was being
passed, Ross Perot, the giant sucking sound and
all that stuff.
So NAFTA has like really been controversial ever since I've been paying attention to it, and this chart shows that. Here the question is: overall do you think NAFTA is good or bad for the U.S. economy?

And so this was kind of underwater like 40 people saying, yes, we think NAFTA is good. And then it's really interesting to see what's happened in the last five or six or seven years. All of a sudden, NAFTA got really popular, right. And so part of it has to do with the recession and then the recovery. People are usually more pro-trade when the economy is doing better.

Part of it, I don't know, part of that had to do with the 2016 election. I think a number of these Democrats now are saying they support trade just to stick it to the man. I don't know if they're really reliable trade supporters. But if Trump is against it, they are for it.

But anyway, NAFTA has never been more
popular, right? And so right now we have before Congress USMCA, which has gotten most of the old NAFTA in it with a few adjustments. And so it's a big priority for us to get that thing approved by Congress. You saw earlier Canada and Mexico are our top two markets now that China has fallen, so for ag products. So we want to have the ability to keep those markets open. Certainty for those customers is important to us. And so passing USMCA, taking the threat of losing NAFTA off the table, is a really big deal.

Next slide. Just one way to illustrate that, this shows Mexican imports of ag products and what the U.S. share is, all right. So Mexico imports over $1 billion of wheat every year; 57 percent of that comes from the U.S., right? A lot of the rest comes from Canada, the other NAFTA partner. They import $2 billion of soy beans; 94 percent come from the U.S. They import $1 billion of poultry and 79 percent. So Mexico is a great market for us. It's not surprising. It's right next door.
We've got close economic ties, business ties. There's no tariffs between us. And there's to some degree a lot of complementarity. You know, we are land extensive producers. They are less available land, more labor intense producers. We send to them a lot of our row crops, a lot of livestock. They send a lot of tropical products and fruits and vegetables to us, and we sell counter seasonal trade both ways.

So it's a really big thing for us to launch that. So that's why getting USMCA through Congress is one of top priorities. Next slide.

Same idea, next slide. You know, one way to think about it is the Farm Foundation did, they hired Commerce to say: what are the benefits of USMCA?

And they said well if we pass USMCA, we'll have some more exports. We'll grow because we've got some more dairy access out of Canada, basically is what that shows. So there's some small positive. But what happens if we don't have USMCA? What if we pull out of NAFTA? Then
we're going to see our exports revenue fall by $2 billion.

So I think this illustrates there's some positive things about USMCA. But really it's this negative consequence that we really want to avoid.

Okay, next slide. So let's talk a little bit about China now. So this is how I think about China. You go back 20 years ago and you look at China and India, and they would look very similar to you, right.

They are developing countries, a billion people, large land mass, very self-sufficient in agriculture production. Their borders were closed. They didn't import much. They didn't export a whole lot, right. So that was 20 years ago. Then China joined the WTO in 2001. They lowered a number of their tariffs. They made a number of other economic policy changes. I think they decided to embrace comparative advantage. They said, look, we are going to be exporters of manufactured products,
and we're going to recognize that we've got
limits on the productivity of our agriculture
products.

And then the difference here is what
the red area shows is India's trade balance with
the world. India, despite having a billion
people, despite having huge challenges in terms
of available land and available water and low
productivity, is a net exporter of food products
in the world. They're the top sugar exporter.
They're the top wheat exporter. They're the top
beef exporter, a big rice exporter. Whereas
China is a huge net importer of food products of
the world, right.

And so to me this is a case of India
joined WTO in 1948, and they locked in high
levels of protection. The average allowed tariff
on agricultural products in India is 113 percent.

For some products it's up to 300
percent. China's average allowed tariff is like
15 percent. And so not only are the tariffs low,
but it just shows the policy of China has allowed
more imports, right. They're following a
different path. And it's of course been a big
deal for us in agriculture. China is such a big
market for us.

So next slide, getting back to how
making the world a better place can be to our
benefit, this shows over time the economic growth
in China, the number of people who live above $10
a day is now 80 percent, I'm sorry, 25 percent of
Chinese people. The number of people who live
between $3 and $10 a day is the vast majority.
The number of people below $1.25 has gone from
more than half to just a sliver, all right.

So China has jumped on economic
development. That has improved their living
conditions. Next slide, real GDP. Next slide is
child mortality. Children are surviving better.
And we are beneficiaries because they are eating
more, they're importing more. And so when we or
U.S. markets' ability to sell, this is really
about China.

There was a story about some English
textile manufacturer in the late 1800s who said, you know, if you just add an extra inch to every Chinaman's shirttail, we'll all be rich. And I get a sense that's kind of how we look at China now. If every Chinese person ate another apple. If every Chinese person had an extra slice of bread, just imagine. So we look at China that way a lot.

Next slide. So this shows the index, right. See how the trade war has not affected our industrial exports as much as China. Like what does China import from us from industrial products? They import a lot of inputs. Like they import a ton of semiconductors. They import a lot of things that they put into machines that they then export somewhere else. So they have been careful not to shut off that trade. What they have shut off is the ag trade, right. They have found other suppliers for agriculture.

So the decline of U.S. exports to China has really been mostly felt on the ag.
products to China over time. You know, big grain price spiked, pushed this up and modulated and then started here with the trade actions. Next slide. This shows for different products our 10 year high. You always think that's normal, and we should even be growing it. That's the 10 year high. This was last year, 2018.

So for individual sectors, here's soy beans, celebrated soy beans, they need their own index over here. It's so much bigger than everything else. So this is how this was felt on an individual product. Next slide. Okay, so go back, sorry. So with China, it's hard to keep up with this because things happen from day to day to day. You know, yesterday the President made an announcement about delaying some tariffs. So this thing is a very dynamic situation.

You know, what we've done on the ag side is we said look, we're very concerned about bad policy in China. China's failure to protect intellectual property, China's forcing technology transfer. Chinese protectionism generally is...
bad. It's not only unfair to U.S. companies who want to do business in China, but it's constraining economic growth in China. And we think if China had a more open economy, if they had a more rules-based economy Chinese economic growth would be better, and we would have better access to those customers because there wouldn't be those barriers, and we would have richer customers in China. So do us a favor, China, make the reforms to become a more modern trading partner. So that's what we want.

On the other end of this trading conflict with China right now is that if we see a more open Chinese market, it's going to be great news for us because we'll have better access to customers who will have more money to spend. But in the interim, obviously there's a lot of conflict going on right now. And agriculture is caught in the middle of it. So our objective is then let's use this negotiation to solve some discreet problems we have in agriculture.

China right now bans the import of
U.S. poultry. There's no reason for that. China right now bans the import of beef that's been treated with hormones. There's no reason for that. You know, China right now has got a whole bunch of restrictions that we would like to fix. So we're trying to get that stuff on the table in this negotiation. But of course, getting the tariffs off and going back to normal but in a better environment for China we think is going to be better for us. But we're right in the middle of all that.

Okay, next slide. So this is Japan, right. So Japan is one of our top markets. It's a very good market for us in ag products. It's a high value market, a high price market. And for a number of commodities it's like one of our top markets. What's interesting is we sell lots in Japan despite facing really high tariffs.

Japan is a country that is interested in protecting its agricultural sector and uses tariffs as a way to limit competition. So despite relatively high tariffs, it's one of our
top markets and really important for a range of products.

Next slide. So we had a problem in Japan that is when negotiating trade agreements with other countries in which it was lowering the tariffs that it will impose on our competitors, right.

So here's a great one. Right, $2 billion market for us. We pay a 38.5 percent tariff. In fact, it can be as high as 50 percent because the surge of imports Japan can snap that tariff up. They have committed under the CPTPP, the Trans-Pacific Partnership, to lower the tariff on beef down to 9 percent. It's our biggest market for beef, and now we run the risk that Australia and New Zealand, Canada, Europe they will grow in the face of this lower tariff, right. So this is a problem across the board.

We want a trade agreement with China because less tariffs mean we'll compete better with Japanese product. Less tariffs mean we'll compete better with third countries.
Next slide. What this shows is just sort of nuts and bolts. So under WTO commitments, Japan said we promise never to charge more than 50 percent on imported beef, 50 percent, right. Day to day they charge 38.5 because they don't want to tax their consumers too heavily because they're big beef importers. So that's what we pay, 38.5. This purple on here shows the Free Trade Agreement Australia negotiated, where the tariff on Australian beef would go down to 28 immediately and then slowly over time fall beneath 20 percent.

So we're at 38.5 tariff, they're at 20 percent tariff. So we went into the TPP saying we're going to not only get rid of this discrimination in Australia, but we're going to do better than that. So the TPP deal brings that tariff down to 9 percent. So as long as we're outside the TPP, as long as we don't have a trade agreement with Japan, we face Canada, Chile, Mexico, New Zealand, Australia, this 9 percent tariff, we're at 38.5. So we've got to get a
deal, we hope, that will bring us down. So you
can see that across the board that's the tariff.
All right. So this is a very prescient
negotiation.

You know, part of the leverage from
this is the 232 action on automobiles, which is
hanging out there. So there's a lot of pressure
particularly to get an agricultural deliverable,
to get at least an agriculture deal in the short
term even if it's not a full blown free trade
agreement across every single product.

So big priority for us to make sure
that comes about. Okay, next one. So there's a
lot of talk about EU. One of our top markets.

It's a frustrating market for me to
look at as an economist. I don't see the -- you
know, Europeans are good farmers. They make a
good product. But it's not a lot better than
ours. But somehow we are importing a lot more
European products than we are exporting to
Europe, right. So we have this trade deficit
which, you know, in some cases it makes sense. It
makes sense for us to have a trade deficit with New Zealand. There's nobody in New Zealand to buy our product, and they're good producers.

I don't know why we have a trade deficit in Europe. So that's frustrating. And the reason, of course, is there's a lot of trade barriers -- high tariffs, unjustified health and safety measures, and just a lot of restrictions.

Next slide. So you look at what we sell to Europe. We sell quite a bit of soy beans, $2 billion a year, quite a bit of almonds. But the rest of the stuff, not a ton, right.

And my concern is that Europe needs our soy beans because they need protein, so they found a way to let our product in. And they need our almonds, because how can you have a proper almond croissant without an almond? But this other stuff, you know, they are not really interested in the competition. So they haven't, you know, may not be direct protectionism. Sometimes it is, but they're not facilitating.

So this is our objective. And it's
tricky because there's a tariff element to it, would have higher tariffs on us. But also there's just the regulatory environment which is very difficult for us to deal with because of the way that we produce products.

The next chart just shows what we import from the EU. Again, there's fancy wine. You know, a lot of sort of consumer-oriented products, a lot of cheese. And so we do take in a lot of products from Europe. All right. So those are sort of the big countries that we're working on trade issues right now, trade policy issues.

The next slide just to me sort of wraps it up as to why we focus so much on trade policy on trade negotiations, and why I think it's so important to agriculture. What this chart here shows is all of these countries that we've had trade agreements with, free trade agreements plus China joined the WTO, cases where we've had a chance to sit down with other countries and negotiate: are you going to reduce your tariffs,
or are you going to reduce your barriers?

So in each of these cases, you'll see the U.S. export, the average exports for the five years before we had the deal is much less than the five year average after we had the deal. And that's not surprising because when we do a trade agreement, countries agree to reduce their barriers to our products. We are competitive producers. So in a free trade environment, we are going to do well. And in addition, what trade agreements do is they increase the overall economic growth in these countries. Remember, trade agreements are pro-competitive. They're encouraging more play at market forces in these economies and it's fostering economic growth.

So we have better access to more wealthy customers. It's not a surprise that we sell more once we do trade agreements. And so for us, focused on finding customers, that's why we're so interested.

So next chart. So when we talk about where we want to see further opportunities, where
there's going to be more customers, it's really in Asia. This is where we have growing populations, we have growing economies, we have real resource constraints on their ability to competitively bring us ag products. We have a lot of differentiation in what we produce.

Many of these are tropical countries. We are a temperate country. And so these are the kinds of things that as we go forward that if we can reduce barriers, improve the environment, this is where we'll really be able to move the needle. So then the country here is our exports in 2017, and the U.S. market share of agricultural products in that region. So we sold 1.6 billion to India, but we're only 6 percent of the import share.

So there's lots of room to grow there. And with Japan, a little bit better, we sold them 11.9. We have 25 percent market share. That's why we don't want to lose this as other countries face lower tariffs; we've got to at least keep that.
Okay. So that's that. Why don't I just stop there and see if there's some questions or comments.

MR. SMITH: One of the things that affects the processing industry is the canned steel imports on canned products. For example, our canning costs, the tariff on that is 25 percent, but yet China can import to us with no tariff on their can.

MR. ZEA: Yes, steel faces the tariff.

MR. SMITH: But their can does not face the tariff. And so I just wanted to bring that up that's remains a really critical point to the processing industry.

MR. HAFEMEISTER: Yes, I'm fully aware of that, yes.

MR. SMITH: And we've met before.

MR. HAFEMEISTER: Yes, I appreciate that.

MR. WILKINS: Where do you see U.S. with USMCA?

MR. HAFEMEISTER: Thank you for that.
You know, I don't have any special knowledge. I mean my, the biggest insight I have is I'm really impressed with the Administration and the Congressional House leadership and their message, discipline on this.

You know, whenever you hear the Speaker of the House or other senior leaders in the Democratic Party talking about the trade agreement, it's always very positive. It's like we want to find a way to get it done. We're working closely with the Administration. And we think there is a path to do this. We think it will happen by the end of the year.

And then on the Administration side, it's very much we're working closely with the Speaker. We think we have a good process. So everyone is being optimistic, optimistic, optimistic. So you know, it's a real problem when you start seeing the finger pointing and the egg throwing, right. And so we're not there. And so you know, the conventionalism, I agree with, which is why votes are there in the House.
If you sent that up today, we would get that thing across. So it's really a question I think of, you know, how and when the Speaker feels like she's got the terms she needs for whatever internal dynamics she's working to be able to bring it across. And, you know, we had a summer deadline. That's slipping, but there is by all accounts serious engagement. So I'm certainly hopeful that we can get it done this year.

MR. WILKINS: Do you have any insight on what she is looking for?

MR. HAFEMEISTER: No, I don't. They talked about these four areas where the House leadership has set up working groups: labor, environment, pharmaceuticals and dispute settlement, right.

And so labor and environment is a longstanding issue in Washington in terms of trade politics. You know, how do we get other countries to make commitments on labor and environment standards, and how do we use a trade agreement to enforce them?
So letting people know the outlines of how to negotiate that. Pharmaceuticals, there's this question of -- it's a little trickier. I'm not an expert on it.

You know, on the one hand are we by giving longer patent protection to U.S. pharmaceutical companies, are we impairing our ability to have those pharmaceuticals in this country, or can we somehow foster trade in pharmaceuticals to Mexico and Canada to help lower our prices?

So that's -- I think that's complicated, and for me it's complicated. And the last one is on dispute settlement right, which is this question of: we do a trade agreement, and is it going to be binding? Is it going to be enforceable? And the problem within NAFTA was that any individual country could say once they're in a dispute where we say hey, Mexico, those anti-dumping duties on high fructose corn syrup, they're unjustified. There's no reason for that. You do not find
unfairly traded product. We're going to sue you. Mexico would have the ability to say, you know, we're just going to pull the plug on that process. We're going to block the expert panel from meeting.

So do we want to strengthen that by saying, no, just because it's inconvenient for you doesn't mean you can avoid a lawsuit here, or are we going to try and find some other way to enforce these commitments?

And so that's where, you know, the politics is. If we're going to get labor and environment commitments, how enforceable are those going to be inside an agreement, and how strong is that mechanism going to be?

So the good news is it's discreet. It's four specific issues where experts are sitting down and talking. So that's a sign of progress.

MR. ERICKSON: Question, on Slide 16 this triggered a question I've had for some time and you happened to present a slide there that
reminded me. January 11, 2018, imports of steel declared a national security threat. Do you know if, are there triggers -- are there actual triggers in place and data that is utilized to determine that something has become a national threat, or is it an arbitrary decision?

And following that, what are your thoughts on when you look at the growing U.S. population and the volume of product that is -- of food that is imported to the United States versus what is produced in the United States, there's a growing gap.

Does in your estimation, a threshold exist there where at some point somebody may say this is really concerning, this is approaching national security threat levels?

MR. HAFEMEISTER: Yes. So it's interesting. This law, Section 232 of the Trade Act, is very general.

It says should the President determine after having consultation from, you know, the -- including the input from the Secretary of Defense
that there is a national security threat, he may
take action including tariffs to restrict
imports. And it doesn't enumerate specific
triggers or standards for what that is. So
there's legislation right now. Congress is
saying we gave President Obama a lot of power
here, and maybe we need to define it better. So
there's some effort in Congress to do that. But
in the interim, this is authority that the
President has.

In the case of steel, the metric that
the Commerce Department developed was that they
said, you know, we need to have a strong steel
industry to have a strong national defense.
We've got to have access to U.S. steel. And how
are we going to determine what's a strong steel
industry? They said, well it's going to be based
on capacity and utilization. They said it was 80
percent. If we can get capacity and utilization,
all of our steel plants working up to 80 percent,
then that's an indicator there is a strong,
healthy steel industry.
So let's put tariffs in place which will encourage domestic producers to ramp up production because they will compete better against imports until we can get back to this threshold of capacity utilization.

So that's the logic behind it. We don't know the auto logic. That one is still being closely held. But the President has to make a determination based on some fact patterns, but there's quite a bit of discretion behind it.

So that's the first part of your question. The second part was, you know, is imports as a share of consumption and production, as that grows what that does that mean? So let's go back a couple slides here, one more. So we've talked a lot about trade deficits. This is related to what you're saying. Since I have a slide, that's what I'm going to talk about even if it's not your question. So we've talked a lot about trade deficits. So what this chart here shows is our trade deficit is in red, right.

2002 was almost $500 billion. Now, we're around
here around $800 billion in terms of a trade
deficit with goods, not staking out services,
right. This is just goods, merchandise trade.

But what I find interesting is look at
where our trade in oil and gas has been. So it
used to be that oil and gas imports, our deficit,
we were importing so much petroleum, Saudi
Arabia, Mexico, Venezuela, Canada and all these
countries sell us oil because we're big oil
consumers in the U.S. Half of our trade deficit
was because of our oil and gas deficits. All
right, so that's 2011. Well, what's happened
since then and today is the fracking boom, right.
Now, we're like producing more oil and gas than
we ever have. Look what happened to the oil and
gas trade deficit. It's disappearing. There is
some talk that we might be a net exporter of
natural gas and petroleum in the near future
because we're cranking so much out through
fracking.

So we think that well gosh, if the
major component of our trade deficit is oil and
gas, and we're no longer importing so much oil
and gas that would help our trade balance. Look
what happened to the trade balance. Right, it
didn't move much. So to me the point is these
trade balances are factors of macroeconomic
forces, right.

The United States is a great economy.
It's the best economy in the world. We suck in
investment like nowhere else, right. Countries
come to the United States to invest. They bring
foreign currency here and they say, my gosh can I
buy some land, can I buy some plants, can I buy
some stocks. We are a profligate people. We have
huge debt, next slide. We run a huge budget
deficit, right. Here's our deficit -- budget
deficit.

So we're always putting out T-Bills.
Oh my gosh, someone has got to finance the budget
deficit. How do you pay for that? China, these
Europeans, Japanese they bring their foreign
currency over here and they buy T-bills, right.

So we're a wash with foreign currency.
And we're rich. Oh my gosh, we're rich. So what do we do with all of that? We don't save it. You know personal savings rates in this country are small, small, small. We consume. We buy stuff, right. We're champion consumers. And so that -- let's go back to trade deficit. So that's what drives this trade deficit. It's the strength of the U.S. economy, the strength of the dollar. It's our savings habits, our consumption. Now the only time this deficit shrinks is when we have a recession, then we're not buying as much.

And so you can see this with China, right. We are restricting Chinese exports, but we're buying from Vietnam instead, right, because we are consumers. We want this stuff. Now there are certain factors, you know, certain sectors where supply will be shortened and there is some, you know, increased production in the U.S. But these factors I think are really, really much bigger than a lot of sort of the individual pricing.

So even though we've got lots of
unfair trade practices out there, you know. China
is a great example. There's 15 things I want to
fix in China, and that will help our sector if we
had a more fair trade agreement. But I don't
this is going to be an indicator of success or
failure.

CHAIR CARR: I'm going to limit it to
one more question.

MR. LIPETZKY: Jason, I appreciate the
focus on Japan and the fact that we're no longer
part of the TPP. Where are we headed after
Japan? Is it Taiwan? Is it other places where
we need to wrap up that bilateral side of it, or
is there any appetite at all to kind of rejoining
some of the TPP side or GATT?

MR. HAFEMEISTER: Well, I think
there's two sides to that equation. One will be:
where do we see market opportunities? Keep
going, keep going, keep going, keep going.
Sorry, you're going the wrong way. It's Asia,
right, that's where we see a lot of market
opportunity. So part of that is the TPP
countries. Part of that is these TPP countries. So we would love to get into negotiations with them. And partly we need to catch up on TPP, and also these are our targets.

But there's, I think the other side to be aware of is that there is also a lot of concern about unfair trade practices from some of these countries. A lot of Chinese manufacturing are moving to Vietnam. The Vietnam trade deficit is growing because we're importing more from Vietnam. For India, a lot of complaints, unfair trade practices there. And so Europe is a place where we're on the verge of a trade negotiation to deal with unfair trade practice. So those are places where we might have some leverage to say, you know, since we're unhappy with the way you guys are acting, we want to fix some things. These are some things in agriculture we should fix. So some of that overlaps here.

CHAIR CARR: Jason, are you going to be around for a while, or what's your schedule?

MR. HAFEMEISTER: Yes, I have a couple
of minutes. I've got to be back. But I can
spend maybe 5-10 minutes here.

CHAIR CARR: So if we have any
committee members that didn't get a question
answered in the group and want to go speak with
Jason now before he leaves, he's going to wrap up
any of our conversations, please do so and try to
give everybody the same chance.

MR. HAFEMEISTER: I went over time,
sorry.

CHAIR CARR: No problem. We know this
will be a challenging day. When questions get
started they keep going. But Jason, appreciate
your presentation and sharing all this with us.
And again, if anybody wants to meet you in the
back.

MR. HAFEMEISTER: Thank you for your
time.

MR. SMITH: Since I think I'm the one
in between lunch, I will try and make this quick.
Okay, I first of all want to start out thanking
the Production Workgroup. Everybody worked
diligently to get this done. Charles had it all started for us taking good notes and putting things together. And the group came together really well. And we were, I think one of the first groups to get things done. And so I appreciate everybody's commitment and joining in to get this done.

The objective statement of the Production Workgroup just recognizes that we have a lot of production challenges and that we do need assistance with them. We targeted four things that we wanted to talk about. Research, crop insurance, over-spray and packing and chemical labels. So we'll get into those particular recommendations and overviews.

So first of all, we're on research. It was our opinion that most agriculture research funding goes into agronomic row crops due to just the market potential for everybody to capture the returns on that. And as such, the specialty crop research has lagged. And we still have significant production challenges that are not
being addressed.

For example, productivity on corn and soy beans if you look at the chart has just gone like this, straight up with the introduction of GMO and a lot of the new technology that's coming along.

That's not happening with specialty crop industry because of consumer pushback on a lot of these new technologies. So we're dealing with old technologies and competing against a lot of new technologies. The budget constraints of public universities. They're still not being adequately funded to support our industry. Extension outreach programs are limited at the universities.

And so the daily challenges of a lot of production is not getting addressed. If you get some big issue coming along, you know, you'll get funding for some big issues. But everyday production needs is basically going unmet by a lot of the university extension. In addition then, a lot of specialty crop fruit and vegetable
producers are smaller, don't have the access to a
lot of the same types of expertise that a lot of
the agronomic crops have.

Okay. Specifically our recommendations
on research. We noted that private commercial
organizations are excluded from publicly funded
research. And John, you had a lot to say about
this. And we felt it was important to open that
up because so many of the new technologies and
stuff is being done privately, and not as much by
the university and those types of public
organizations.

We also believe that specialty crop
research funding being protected from new and
emerging crops that are not specifically listed
as a specialty crop, and specifically we talked
about the impact on what could be our industry by
the decisions to define hemp as a specialty crop.
If that starts to take away research funding from
specialty crops because they'll be getting a
piece of the pie that's been allocated. And all
of a sudden those pieces get smaller for
everybody else.

So the recommendations to deal with these things, we would request that the Secretary support additional base funding for specialty crop research. We would also recommend that the Secretary review this decision including hemp, looking at the potential negative impacts to existing specialty crops. In particular, about funds for research, SCRI grants and any ways to determine that hemp will dilute the limited research funds that the Fruit Industry Advisory Committee recommends that they reclassify hemp or limit the crop from access to SCRI funding until additional money would become available.

All right. So on crop insurance, it was noted pretty pointedly that federal crop insurance is a viable tool for risk management. But the coverage for fruit and vegetables woefully lacks. Not just lacks, it's woefully lacking for specialty crops compared to agronomic crops, corn and beans.

As a producer myself, I can guarantee
myself a profit before I plant because of the federal crop insurance. And the crop insurance program is so poor, particularly for tomato production, that as a company we had to start our own insurance company to provide our growers anything that was useful, and it's still not as good as the crop insurance for commodity crops.

So that's kind of a basis for where some of this came from. We certainly do appreciate the NAP Program. But we need a lot more parity in crop insurance than what we can currently find in those programs. And you can read some of the particulars about that.

Recommendations, we urge the Secretary to make it a goal to ensure that fruit and vegetable farmers have access to coverage that are on par with row crops. And so I think that speaks pretty pointedly to that.

Okay. The next section is a little bit more lengthy. But it was important to several on our group. That's about over spray and off target chemical applications and legacy
materials. And we pointed out the introduction of dicamba to all our crops has exposed most fruit and vegetables to a risk that was not previously known three years ago. So this is a very new dynamic that's come into the fruit and vegetable world.

We described this particular chemistry is known and was proven to move off target by several methods, could move great distances and affects almost everything in the agronomic fruit and vegetable world.

And an increase in pollinator habitats are also real important to fruit and vegetable pollination and production. It affects organic producers at the risk of losing their organic certification. But one of the biggest things about this is that it does not possess residue tolerance for almost all food crops. Almost every other chemistry has a residue tolerance that says as long as it's underneath, it's still a wholesome, legal, marketable product.

Almost all through crops have a zero
residue tolerance for dicamba. And as such, it would be crop destruct if a hit was taken. And there is not enough insurance to compensate for damages, and federal crop insurance is not even covering over spray damages. So everybody is real vulnerable to a high degree or risk.

The real acrimony that's coming from this is extensive. People can't sit on school boards together, church boards sitting next to people in a pew because they've had off target incidences that were not compensated for.

Okay. The recommendations about this. This is that the USDA, EPA and FDA should recognize that dicamba does move off target, and not hide our heads in the sand about that, and establish a reasonable residue tolerance. We believe that buffers around sites should be a minimum of a mile to the closest sensitive plant, and application should be limited to more desirable circumstances such as lower temperature and humidity.

Several states have imposed an 85
degree limit on this in their own states, and it should be limited to pre-plant, pre-season that would reduce the potential for off target movement.

Number two, due to the overwhelming reports of dicamba volatilization and lack of adequate due process for specialty crop growers whose crops in likelihood have been affected by the tendency to move off target, we strongly recommend that the registrations for the new products that are for soy beans and cotton over the top, in crop not be renewed when the current registration expires.

And in addition, we recommend the EPA evaluate the performance of these products for safety after this season and make an appropriate judgment about their use in 2020 even before the registration expires. We also recommend USDA Pesticide Data Program work with EPA to ensure that dicamba registration is not renewed until such a time when research can prove with certainty that specialty crop producers will not
be adversely affected by any form of off target movement.

Our recommendation number three, it was brought up that there are legacy materials that have been used 30, 40 years ago that are still showing up on residue samples. And these legacy materials have long been prohibited but now with better detection methods they're still showing up. And we recommend that the presence of one of these legacy materials that have not been applied should not be considered an adulterated product or subject to regulatory action.

And then we also number four, recommend that USDA require biotech developers to seek necessary reviews by the USDA for genetics and EPA for corresponding pesticide registration simultaneously resulting in a joint approval process and that the two agencies increase their collaboration before these things are approved.

So for example, with the dicamba situation the seed was approved before EPA
approved the chemistry. And so for about two years there was a lot of dicamba being used on the actual crops and seed before there was even a label registration for that.

That caused a lot of problems. It also created a real pressure point for EPA to approve the use of dicamba because since the seed was out, people were already using it anyway. And so if these things would have been done together there may not have been that same pressure to approve.

Move on to inconsistency of labels. Some chemical labels have the same active ingredients, but they are extremely inconsistent in how they can be used and for what crops. For example, some crops will list products for fruit and vegetables. Some products with the same active ingredient will specifically list certain crops and exclude others even though technically they're still a fruit and vegetable type of thing.

So we've looked at this and we
thought, okay, how can we do it? And we thought that USDA should work with EPA to make sure chemical manufacturers write their labels in a uniform manner across all the different options, particularly since so many things have gone generic that a producer can easily determine the correct requirements, and USDA and EPA should work together to establish crop groups that are consistent with each other. And so some of this goes away of understanding what you can use and what you can't use on certain crops. Is that good?

MR. HUGHES: Thank you. Just one quick reminder that with all the recommendations that you guys draft and eventually finalize, you have to keep in mind that the USDA will only have so much influence over certain recommendations or positions that deal with other agencies. When there's a collaborative relationship that exists, great. But when it comes to tracking the progress of certain recommendations, it gets into an unknown space.
So I just wanted to make sure that I state again because there's a lot of EPA that's involved in those recommendations. The next presenter is going to be the USDA's Brenda Foos who is part of the -- actually I'm sorry, she's the director for the Science and Tech Monitoring Division, right?

MS. FOOS: Actually it's the Monitoring Program Division.

MR. HUGHES: Monitoring Programs.

MS. FOOS: It's the Science and Technology Program.

MR. HUGHES: Yes, okay, all right.

She introduced herself.

MS. FOOS: I can do that.

MR. HUGHES: And I thought Brenda would be good because the Pesticide Data Program falls under her unit, so I figured it would be good for her to provide an overview since that topic was very, inside of your recommendations.

MS. FOOS: So thank you, Darrell. I'm Brenda Foos. I'm the director of the Monitoring
Programs Division. It is also part of the Agricultural Marketing Service like specialty crops is at the root of the Science and Technology Program.

And our main program in my division is the Pesticide Data Program, which is incorporated in one of the recommendations you just heard about. So I'm going to give an overview presentation and talk a little bit about the dicamba information that we have.

But first, I really want to thank you for inviting me and for your interest in our program. This is actually my very first presentation about the program because I've only been the director for four months. So I'm glad to have the opportunity.

MR. HUGHES: There's a tech glitch.

It's coming. There we go.

MS. FOOS: All right, there we go.

PDP was initiated in 1991 to collect data on pesticide residues in food. Our mission today is to provide high quality nationally representative
pesticide residue data for U.S. foods.

The Food Quality Protection Act of 1996, known as FQPA, directs the Secretary of Agriculture to provide improved data collection of pesticide residues, standardized analytical and data recording methods, and increase sampling of foods most likely to be consumed by infants and children. And PDP is performing this mandate under the FQPA. Additionally, PDP provides EPA with data for dietary risk assessments as a part of their registration review process. And we provide the Food and Drug Administration information to help inform better planning and monitoring under their authority to enforce the tolerance for maximum residue levels in the U.S.

The PDP data also is routinely used in the marketing of U.S. food commodities, including building consumer confidence and negotiating with foreign trade partners. The next slide.

In this presentation I'm going to walk you through our approach to accomplishing this mission. And this is the overview slide. The
basis of our program is really cooperative agreements with the states. Currently ten states participate in PDP, and the cooperative agreements between USDA are with the State Departments of Agriculture. Through our program plans, which are available on our website, we direct states' monitoring efforts including which commodities will be sampled, when and for how long.

States conduct the sampling within their states, and the samples are then shipped to the specified state laboratories for residue analysis. States then provide data to the USDA, and it is reviewed by the chemists in the program and added to our ever growing database. Each calendar year the results are compiled to develop our annual summary. And when the summary is released, we also post all of the data for the year to our website so that it is available to everyone who wants to use it.

Next slide. The ten states shown in green on this map are those that currently
participate in the PDP Programs or Cooperative Agreement with the USDA. They are New York, Maryland, North Carolina, Florida, Michigan, Ohio, Texas, Colorado, California and Washington. Our sampling design also draws in crops that are marketed in 13 additional states, and they are shown on the map in yellow.

Through our partnership with the states, the states handle the sample collection and analysis, with some states doing both sampling and laboratory work and others doing only the sampling. Our USDA PDP staff serve as liaisons for the states for sampling lab data review and assisting with other needs. And next slide. Sorry, it's got animation. I thought I took that out. I apologize.

MR. HUGHES: Do you want me to go back to this one here that has all the bullets there?

MS. FOOS: I think we're good. We'll just keep going.

MR. HUGHES: Okay.

MS. FOOS: Sorry about that. I
apologize. I thought I had taken that out so you
could see everything at once.

So PDP selects commodities for
sampling based on input from EPA regarding the
current risk assessment needs. The high
consumption commodities are rotated in and out of
the program because we are not able to do
continuous monitoring of all crops. Other
specific crops are added to the rotation as data
are needed. The selection of commodities
emphasizes consumption by infants and children as
directed by FQPA.

It may be of interest to you all to
know that fruits and vegetables most consumed by
kids are apples, oranges, corn and potatoes. The
analytes or pesticides tested in the program are
specific to each commodity, and we also
coordinate that with EPA and FDA in identifying
the priority compounds. I'll elaborate more on
the commodities and the analytes in the upcoming
slides.

So since its inception in 1991, PDP
has tested more than -- exactly 126 commodities.
And as you can see here these are primarily fruit
and vegetable commodities. Some commodities have
only been through sampling and testing one time,
and others have rotated through the program
multiple times. I want to let you know that we
are currently testing 14 commodities. Those are
cantaloupe, bell pepper, bananas, basil, garbanzo
beans, hot peppers, kiwi, mustard greens, oats,
canned peas, radish, rice, canned spinach and
frozen strawberries.

For the year, PDP will collect about
10,000 food samples resulting in approximately 2
million pesticide commodity data point pairs.
Cumulatively through the PDP history then that's
about 265,000 food samples that have been
analyzed and more than 34 million pesticide
commodity data points.

Next slide. You may be wondering at
this point how it is that we collect all of these
samples. What we do is we first start with our
colleagues at the National Agricultural
Statistics Service to devise the nationally representative sampling plan based on the populations of the ten participating states, which include major fruit and vegetable production states and represent all U.S. census regions.

NASS uses the probability proportional to size model to determine how many samples there are collected at each of the sites in each of the states. Sampling sites are selected randomly but are rated to reflect the volume of product the site handles. Some of these factors can include pounds of produce the facility handles or the square footage of the facility. The idea is really that larger facilities that distribute more commodities are sampled more often than smaller sites.

The samples include foods that are domestic and imported, as well as organic and conventionally grown foods. So most fresh commodities are sampled on a two year basis and are then rotated out. This rotating commodity
sampling allows us to test a wide variety of commodities over time. The sampling time frame also allows us to capture data from different times of the year when certain commodities are available primarily as domestic or imported product.

A good example is blueberries. During the summer months, most of the blueberries that are available for purchase are domestically grown and then during the winter months, they are primarily imported product.

In addition, this approach also captures these intense pressures and growing conditions. Processed foods, such as baby food, that are generally available year round, have shorter sampling periods.

A commodity will reenter the program for sampling every five years if it's highly consumed by children or can reenter as data are needed. An example is that apples are often sampled. And I, since arriving, have been working to reach out to potential stakeholders
working in each of these commodity areas when we put something into the rotation, and I'd be happy to add any of you all to our list of people to reach out to, or your colleagues, just let me know later on.

So that bring us to the actual sampling. The sampling approach that I just described yields 59 samples per commodity per month, for most foods. This equates to over 800 samples collected each month from across the country for analysis, and over 700 samples per year per commodity.

The sample information, including foraging, and organic claim, and many other data fields, are captured electronically by the state employees on site before the samples are shipped to the laboratory for analysis.

And as you can see, that is done in the field in the picture here with the bananas. Our sampling sites include locations that are closest to the consumer and samples are collected within hours of reaching a consumer.
This includes distribution centers, terminal markets, and in some cases, retail locations. This results in PDP data that are consumer exposure levels, rather than the farm gate levels.

This allows time for degradation of products applied both pre and post-harvest, and the consumer exposure levels at PDP monitors are important factors in the pesticide dietary risk assessments.

Collection at these locations allows for representative sampling that closely resembles what consumers are purchasing, and in addition, these sites also have more information available about commodities than retail locations would have.

As per our nationally representative sampling approach, the number of samples collected from each state is proportioned according to the state's population, with more populated states collecting more samples per commodity per month, as illustrated in the table.
So for example, when we are sampling oranges, the sample size is 5 pounds. So California will collect 13 5-pound samples per month and ship them off to the laboratory.

The next slide is about the laboratory. Once the samples arrive at the laboratory, they are prepared using common consumer practices and washed under gently running cool water.

Depending on the sample size stamped on the type of sample, consumer product practices include preparation such as peeling the bananas, and coring the apples, and removing the husks, and loosening the kernel from the corn, as shown here in the picture.

Samples are then homogenized in lab-grade food processors, if needed, and separated into analytical portions.

All of our labs now use a month by catchers method for extraction. This multi-residue method allows labs to perform extraction of multiple pesticides in a fraction of the time.
and the cost of older methods.

Previous extraction methods also generated a large amount of hazardous waste, thereby, increasing the costs. Our sample preparation SODs are posted on our web site, if you're interested in more details.

Following the extraction, the samples are ready for laboratory analysis. PDP has tested over 500 pesticides, metabolites, and isomers in the multi-residue method, but not all pesticides are tested on each commodity, rather, the actual number tested in each sample depends on the commodity, the pesticides that are requested as a priority for each commodity, and laboratory capabilities.

The compounds include many common pesticides, such as carbamates, organophosphates, pyrethroids, neonicotinoids, and triazoles. The PDP laboratories use very good quality instrumentation with gas chromatography, GC, and liquid chromatography, LC, coupled in tandem with mass spectrometers detection systems for
simultaneous identification and quantification of pesticides.

With this instrumentation, we are able to identify a large number of residues at very low limits of detection, or LOD. The LODs vary by commodity and residue, but are in the low parts per billion range.

These low LODs are also very important for the dietary risk assessment applications of PDP data.

All of the resulting data from the state laboratories are then reported back to USDA, where they are reviewed by the staff chemists in our office and incorporated into the database.

Our laboratory approach also includes a robust QA/QC program to help ensure the quality of the resulting datum. Each lab runs blanks, spikes, and process controls with each sample set. The lab must perform matrix spikes at least quarterly for each analyte and crop combination it reports, and that evaluates both the analyst
and the instrument performance.

Methods are validated for each commodity and pesticide and that also establishes the limits of detection and quantification at that time.

Proficiency testing takes place three times a year and all labs within the PDP program are ISO accredited.

Now to the uses of our data, because we really are a data program. PDP data are used in a number of applications and you heard about most of these when we talked about mission.

When the pesticide goes through EPA's registration and review process, there are times that additional data are needed to assess the potential dietary risk of that compound, and PDP provides the high-quality nationally representative data for those risk assessments, which are the basis of EPA's pesticide registration and cancellation decisions.

PDP data often replace model data and there's a benefit then to understand the actual
consumer exposures.

PDP data show that over 99 percent of the samples tested have pesticide residues below the tolerance established by EPA. I'm going to repeat that because I'd like you to really think through how that's a testament to the good work of the farmers of the United States that over 99 percent of the samples tested have pesticide residues below the tolerances.

And knowing this, I think, helps establish consumer confidence in the U.S. food supply.

On a monthly basis, we also monitor the residue levels that come in and if a presumptive tolerance violation is found, we pass that data along to FDA, because they have the enforcement authority over residues.

However, they do not take enforcement action on PDP data, they simply incorporate it into their planning for the actions that they take. They do their own monitoring that is not nationally representative and not throughout the
course of the year, like ours is.

MR. SMITH: Can I ask a question?

MS. FOOS: Sure.

MR. SMITH: How does that 99 percent compare to the imported products?

MS. FOOS: So there are some domestic violations, but it is the majority are the imported products. I don't have a slide on that, but I mean, I could have my data analysts run a query and pass the information on to Darrell if the committee would like that information.

We have a huge amount of data, as I described to you, and I was about to tell you how it's all available on the Web site, but we can do custom queries too. And I'm actually about to show you one about dicamba, but let me finish this slide, then we'll move on to dicamba.

So also when a trade partner has a concern about the pesticide residues in U.S. commodities, the Foreign Agricultural Service often uses PDP data to alleviate those concerns and help resolve the trade disputes.
So now, in addition to the daily uses I just described to you, we get a lot of requests for specialized queries of the database, and I have a really exceptional data analyst who's so good at these things.

I've heard that you all are interested in dicamba, I saw the recommendations that you just had about that, there were quite a few, and so in this slide and the next one, I'm sharing a summary of all of the dicamba data available in the PDP database, which, frankly, is not a lot of data.

Of the more than 250,000 samples in the database, only the 12,905 that are listed here have been analyzed for dicamba.

Now, the likely explanation for this low number is also illustrated on this slide and was brought up by your workgroup chair.

Over on the right side, you can see that most of the commodities in this table really have tolerances for dicamba. And in the selection of analytes, we always give priority to
the analytes that have tolerances for the commodity.

   So pesticides that are not priority analytes are routinely reported by the laboratories if they're a part of the multi-residue method, as I mentioned to you earlier, when we were talking about the laboratories, but dicamba and the other acid herbicides require additional laboratory preparation, so it's not routinely done, and we currently have only one state that reports it as a part of their data.

   So as you can see on this slide, the only commodity with a tolerance for dicamba is milk, and of the 1875 milk samples analyzed, none of them contained even detectable levels of dicamba.

   And then in the second dicamba slide, you can see that the only other commodity with a tolerance is corn and they wanted to know, it's a typo here, and the two empty blocks, the tolerances for the canned corn and canned peach should be the same as the frozen ones.
But also on this slide, you can see that dicamba has only been detected in 11 of the 12,905 samples, and all of those were water samples.

So in summary, dicamba has not been detected in any fruit or vegetable samples that PDP has collected over the last 23 years. And I'm somewhat concerned that this isn't really the information that you were looking for, but we can discuss that in just a few minutes because I'm almost done with my slides.

I want to leave this presentation with you all knowing that all of our data are publicly available. Every year, we produce an annual summary of PDP, and I'll hold it up here, I brought a copy, that includes an informative narrative and robust data tables for the year.

We are currently finalizing the 2018 annual summary and it should be ready in a couple of months, but I'd be happy to send you the 2017 annual summary in hard copy, if you're interested, or it's also available on our Web
site, and the web address is given here at the bottom of the page.

Also on the PDP Web site, you can download annual data files or you can use the web app that allows public searches of PDP data where you can search using a combination of commodity, pesticide, and year.

It's a very handy tool and I encourage you all to check it out if you have a need. So with that, I'd like to thank you again for inviting me to give the presentation. My contact information is here at the bottom of the slide if you have any future questions, but I'll take any current questions you have right now.

MR. KIRSCHENMANN: So on the dicamba thing, is it --

MR. HUGHES: Hey, Brian, can you project a little bit?

MR. KIRSCHENMANN: Yes, so on the dicamba debate on not finding the residues, is there a half-life issue? Because some of the herbicides that we get presented with on drift
issues are present in the crop in the growing season, but are not present by the time they hit the consumers.

So at what point is it adulterated and not adulterated?

MS. FOOS: So I have to tell you, I apologize, I'm not familiar with the adulterated versus non-adulterated issue. That's not a part of our program and maybe if one of you all could explain that to me, I could answer the question better.

But so obviously, if things are -- have degraded past the metabolites that we looked for, we won't find them, but in particular, the dicamba just doesn't work with our standard methods.

So it requires extra preparation and the laboratories don't do that unless asked. And we only ask if there's a tolerance, right? If there is a tolerance, it moves up in priority, and so mostly, they just don't report it because it's extra work. Yes.
MR. ZEA: To go back to follow on Steve's comment, because I was going to ask the same question.

MS. FOOS: Right.

MR. ZEA: It's obviously one that all of us in here, probably, or many of us, assume would happen.

MS. FOOS: Right.

MR. ZEA: But how compelling is that to the statisticians that it's mostly imported product and it's a very, very small percentage overall.

MS. FOOS: And it's still a very small percentage overall. I have not seen a statistical analysis of it. At PDP, we're primarily in the data collection business and we don't do a lot of analysis. If you Google PDP and pull up a bunch of research articles written by people who don't work for me, and that really is part of our mission. We make our data publicly available.

So I can pull data and give you a
table of what we know, but we haven't really
analyzed it, I think, as you're asking. Yes?

MR. WINGARD: Would you go back to
Brian's answer? Did you say or did I -- I know
what your answer was, but did you mean that
because it's difficult to test for, the
government just doesn't test for dicamba very
much?

MS. FOOS: Yes, sir.

MR. WINGARD: So even though your data
looks good, that's only a small portion of that
100,000 you sample every year, or whatever the
number was.

MS. FOOS: That is correct. We have
265,000 food samples that have been analyzed
overall and only 12,000 that have been analyzed
specifically for dicamba.

MR. SMITH: In what year was this
chart done?

MS. FOOS: Oh, I just made that chart.

2017. That's our current publicly released data.

We're still working on the QA of the 2018 data.
MR. SMITH: So I'm just going to make a comment that there wasn't a lot used yet in 2017.

MS. FOOS: Okay. So this is a really new problem.

MR. SMITH: It's a new problem.

MR. WINGARD: So based on your numbers, only 4 percent of your samples, 4.5 percent --

MS. FOOS: Right.

MR. WINGARD: -- to be a little more accurate, of your samples are actually tested for dicamba.

MS. FOOS: That is correct.

MR. WINGARD: Okay.

MR. SMITH: And I would comment that all the stuff coming out of California wouldn't have it on it anyway because it's not approved there.

MS. FOOS: Okay. California is the lab that currently reports it, probably for that reason. I did not know that. I think you just
educated me, but yes, all of the newest data --
so the data table I gave you on dicamba is over
23 years. The newest data that we have received
are all from the California state laboratory.

MS. HARPER-LARSEN: So I will address
adulteration --

MS. FOOS: Okay.

MS. HARPER-LARSEN: -- in simplistic
of terms where it's meaningful to you. If it's
not legally allowed to be used, it's adulterated.

MS. FOOS: Okay.

MS. HARPER-LARSEN: Okay.

MR. WINGARD: Or if it's over the
limit.

MS. HARPER-LARSEN: Or if it's over
the limit for MRLs, okay? In terms of
pesticides. Now, we also deal with it being, you
know, inedible quality, and microbial
contaminates, and a lot of other additional
hazards, including radiological thing, okay? But
in your terms of that, okay?

MS. FOOS: Okay. So in the samples we
have, there's really no evidence of adulterated, as you would call it. We usually call them -- if there is no tolerance and we find it anyway, we would describe that as just identifying a residue.

We don't call it adulterated. If we find it over the tolerance, we would call it a presumed tolerance violation. We did give both of those -- both types of data to FDA for their evaluation, but we haven't had any on dicamba, so we haven't given them the information.

It seems as though you all have information, maybe, in California, is where that's coming from, that dicamba is adulterating in the way that would have a relationship with pesticide residues, is that correct?

Maybe somebody can educate me on that too, how, sort of, it's -- how you have evidence of dicamba adulterating residue samples, because it's not from my data. Is it from somebody else's data?

MS. HARPER-LARSEN: Because it's
privately tested and required by customers. The
audits.

    MS. FOOS: Okay.

    MS. HARPER-LARSEN: And there are
contracts that are specific, probably quite a few
of us in the room have, particularly in the last
two years, that have provisions specific to
dicamba and a couple of other chemical residues
that we're actually prevented from having them on
our chemical list, even if it is permitted use.

    MS. FOOS: Tell me that one more time.

    MS. HARPER-LARSEN: So retailers won't
let us use it if we sold crops.

    MS. FOOS: Okay. All right. They
don't want your crops skewing your private
detection or them in their private detection.

    MS. HARPER-LARSEN: Well, they don't
spend money. They put it on us.

    MS. FOOS: Okay. I don't know what to
say. It sounds like you're looking for things
that we --

    (Simultaneous speaking.)
MS. FOOS: When I pulled up the
dicamba data, I figured it wasn't going to be
what you all wanted to see, but it's what we
have.

MS. HARPER-LARSEN: Well, we're glad
that you got some data to start with. I think it
gives the working group in particular, some
additional information to proceed with. In
regards to what you see here relating to,
particularly, the water, because that's used, I
mean, especially when we look at the tested and
finished water, even though you had part per
trillion --

MS. FOOS: Right.

MS. HARPER-LARSEN: -- okay, it's
still --

MS. FOOS: It's in the realm.

MS. HARPER-LARSEN: Right. And the
various ways that agriculture and the public, you
know, also use that in needing to, sort of, have
that research and it being a bit more robust
probably begs the question.
But I wanted to highlight to you that, in particular, I did not see watermelons listed here. And the reason why those are particularly on the radar is, they cause the shot heard around the world related to dicamba.

So everybody thinks it's a soybean and a corn issue, but it wasn't. It was a customer of mine.

MS. FOOS: It was what?

MS. HARPER-LARSEN: It was a customer of mine that shot and killed another farmer.

MS. FOOS: Oh.

MS. HARPER-LARSEN: Oh, yes. And with that being said, it was relating to a future watermelon crop. It was not a commodity crop at the time. And so noticeably missing from this data list is watermelon.

MS. FOOS: All right. So I'm looking in the annual summary, as I said, robust data tables in the back, watermelon has rotated through our program three times. The most recent time ending in June of 2015.
MS. HARPER-LARSEN: So that's prior to it.

MS. FOOS: Yes, I think so. I mean, to get at your question about why don't we do everything, we have a pretty limited budget. We do these multi-residue methods so we can get the most we can for -- within our -- within what we can work with. We only do 14 commodities at a time.

I would imagine around the table here you represent well more than 14 commodities. And so it's all we can do.

MR. SMITH: Could you comment, what kind of relationship you have with EPA that could enhance the correlation between the two agencies?

MS. FOOS: So I can speak to my own program and the pesticide data program, and our exchange of data on residues, I think -- I don't know, Darrell, have they had any engagement with Office of Pest Management Policy?

MR. SMITH: No.

MS. FOOS: No. Okay. So USDA also,
at the very high level, has an Office of Pest Management Policy, and they also work with the EPA on a number of issues. Much broader than residue analysis.

I think they might have more information you would be interested in, but from us, from our perspective on residue analysis, our program and the dietary risk assessments are both mandated under the Food Quality Protection Act.

And so we work very closely together that our data is helpful to them in conducting the dietary risk assessments.

And as I mentioned before, it often replaces the model data and in that way it's advantageous because the data does show that, generally, the foods are all meeting the tolerances.

And so our relationship is really about what are the current risk assessment needs, which chemicals are undergoing the registration review in the upcoming timeline that we might be able to provide timely data, and particularly,
about which commodities to reenter the program, focusing on those ones for infants and children.

MR. SMITH: So could you provide them -- looking at this list of no tolerances, could you provide them encouragement, in some form, to help get those established? If we make this recommendation, comes out of this group, to the USDA, you know, it's not to EPA, can your group influence EPA to do something about that?

MS. FOOS: We certainly can share it. I think that maybe that Office of Pest Management Policy does more on the bigger picture. I think it's possible, after hearing what the pesticide data program is about, that you all would want to consider changing that recommendation, just say USDA, but then you could get our influence and Pest Management Policy.

MR. SMITH: Okay.

MS. GLEASON: I'm wondering, if you're using these recommendations or these -- this data is to make recommendations about whether something should be registered or registration
should be cancelled?

    MS. FOOS: We do not.

    MS. GLEASON: Okay.

    MS. FOOS: We just make the data available. The EPA does all of the analyses.

    MS. GLEASON: Okay.

    MS. FOOS: FDA does --

    MS. GLEASON: Does it have to be a certain -- I mean, there's so little -- it seems like there's so little data right here around dicamba, does there have to be a certain, like, number of samples, or a certain level of data that you have to provide around --

    MS. FOOS: So there are, and I'm sorry, I don't know off the top of my head, when I read to you the 800 samples per commodity per year, that is based on the minimum means.

    So what I can tell you is, I don't think that EPA is using these data in the dicamba assessments. I don't know off the top of my head, know what assessments EPA is doing for dicamba, though, because we simply share data and
we don't engage them in the analysis.

MS. HARPER-LARSEN: How about FDA, all that, are they -- are you sharing any of this data with the FDA?

MS. FOOS: We do share data with them too. And I know for a fact that they do not take enforcement violations actions based on PDP data. They will look at what we found and what they found in their non-nationally representative sampling.

My understanding is they do more targeted sampling. And maybe they would take what we find and devise a targeted sampling or decide that they don't need to do a targeted sampling, but we just help them in planning the projects.

MR. SMITH: Brett?

MR. ERICKSON: Does your agency ever have discussions regarding the fact that the data that you guys put out is utilized by -- or used to publish this dirty dozen list and the impacts that that data has and how it's twisted, or taken
out of context, or on relativity, you know, how
that impacts growers and producers in the -- in
this room and in the country?

MS. FOOS: So I have heard discussions
about that even in my short time here. And
because we make it publicly available, the public
is able to do with it as they want. We do not
issue our own analyses. We don't do the EPA
analyses and we don't do any other group's
analyses either.

I think you have to weigh, at least in
my opinion, you have to weight that some people
will use it in a way you don't like, with other
people will use it in a way that you do like.
And overall, the data are very supportive of the
food quality in the United States, and should
build consumer confidence overall, to encourage
people to eat more fruits and vegetables.

You look unsatisfied with that answer.

MR. ERICKSON: Well, I agree with you
on the fact that people take -- you can take a
piece of data and turn it into whatever you want.
MS. FOOS: Absolutely. And we have tried to remain a data program and not a -- not the policy program, which is why, maybe, the Office of Pest Management Policy would be able to better engage in some of the things you've been discussing.

CHAIR CARR: Time for one last question?

MS. FOOS: Well, everybody wants lunch, so thank you very much for inviting me. And I want to tell you, when I was on the way up here in the elevator, a gentleman was commenting, he saw the Fruit and Vegetable Industry Committee on the rolling screen, he's like, wow, I want to go to their lunch.

If you guys are having some great fruit and vegetable lunch, can I be invited? I suspect it's like other committees where you have to go get your own lunch.

CHAIR CARR: That's probably a good thing. Darrell, you can lead into that and talk about it over the next 75 minutes.
MR. HUGHES: All right. Over the next 75 minutes, you're free to eat lunch wherever you want, just be back in time.

CHAIR CARR: So we're meeting back here at 1:30?

MR. HUGHES: Back here at 1:30.

CHAIR CARR: Is it 1:30?

MR. HUGHES: 1:25.

(Whereupon, the above-entitled matter went off the record at 12:16 p.m. and resumed at 1:31 p.m.)

MR. TALAN: Good afternoon, everyone. It's a pleasure to be here. I'm David Talan with the Bureau of Labor Statistics. I am the program manager for the Quarterly Census of Employment and Wages.

MR. ROBISON: Ed Robison from Bureau of Labor Statistics. I'm a mascot, they have a group mascots, and we have not QCEW, but we have Census of Employment and Wages, also have current population survey, and I'm well aware over the years, with other groups, that there are
differences in our ag data and various other ag
data that's out there.

MR. JONES: Hi. I'm John Jones, same
thing, BLS, but I'm in the Occupational
Statistics Program specifically. I'm a columnist
there.

I'm here representing, actually,
another colleague that wrote a paper on the ag
industry when we did the Green Services Job
Survey, and it's 2011, so it's eight years ago,
but apparently you guys want to hear about it, so
I'm here.

CHAIR CARR: Thank you. Your name one
more time.

MR. JONES: It's John Jones.

MR. HUGHES: And that's it for now.

Brian Pasternak is on the agenda to group
presentation later. He's in the back. You guys
will meet him later and there's one additional --

oh, yes, that's right. David Hines, right?

CHAIR CARR: David Hiles.

MR. HUGHES: Hiles?
CHAIR CARR: Hiles, H-I-L-E-S.

MR. HUGHES: He's on his way via bike, maybe, so -- which is great exercise, being healthy.

MR. ERICKSON: How many labor speakers do we -- all these guys are going to speak after?

MR. HUGHES: Two.

MR. ERICKSON: Two.

MR. HUGHES: Yes.

MR. ERICKSON: Thank you.

MR. HUGHES: And we just have them on deck in case you ask questions, to provide their support.

MR. ERICKSON: Okay. I'll run through our stuff really quick so our speakers can come up. It's interesting that Immigration and Labor are not as high of a topic as some of the other stuff we've talked about today. It's interesting.

So I'd like to thank the group, in particular, Chalmers was very helpful in helping put together some language for some of our
requests.

Somebody very wise told me, and you may have heard this before, but we can import our food, or we can import our labor, we can choose, either way, foreign hands will be harvesting those products.

It would be preferable that those hands are picking that product that is grown here in the U.S.

I'm not going to go through our objective statement here, I'm just going to jump into -- we read that last time, our first recommendation was, we request the Secretary's collaboration with other agencies to remove the ten-month rule.

The most commonly accepted interpretation by U.S. Department of Labor is that temporary means employment of less than ten months and we would like to remove that ten-month rule to read less than one year.

Recommendation Number 2, we request that USDA research methods to make the Farm Labor
Survey more robust. It is our understanding that
the new survey, moving forward, that some of the
key areas of improvement are identified,
employers who use H-2A labor designed to
determine base wages for various occupations
within ag by separating out base wages, overtime
wages, and bonuses, all things which had
previously been used in reporting wages.

The intent in separating out these
wage add-ons is to determine and publish the base
wages paid in various ag occupations which could
then be used DOL in its adverse wage
calculations.

So we request that the Secretary
monitor this process very closely and work
closely with the Secretary of Labor to ensure the
refined data that is collected is used to support
agricultural employers and the American farm
worker.

Recommendation Number 3, we request
that USDA work with other agencies to change the
rule related to 51 percent are more a product
coming from outside the H-2A farm applicant
because many growers also pack for others, as we
see consolidation in the industry and a lot of
labor challenges, a lot of these packing houses
are packing product that is not only their own,
and that is important to those growers who rely
on that person to pack and market and ship their
product.

Recommendation Number 4, we request
collaboration between the Secretary of Labor and
USDA to have -- create a meaningful impact for
employers utilizing the H-2A program by
developing a program that identifies preferred
employers who possess solid history in the
program for an expedited and more streamlined
application process.

That's pretty self-explanatory.

Recommendation Number 5, we can breeze through
because that is -- we still have some discussion
within our group on Recommendation Number 5, and
which we will be discussing tomorrow. That is my
report.
MR. HUGHES: All right. I think we have Jody up now from NASS, and Jody will introduce himself when he comes up.

MR. MCDANIEL: All right. Good afternoon, everybody. I get the fun spot. You guys just filled your stomachs, so I'm not anticipating any questions, so we'll be good.

I'll forewarn you, I went a little bit old school and low tech on the fact that I didn't build a slide deck for today, so what I really want to do is, sort of, explain what we have as far as data from the National Ag Statistic Service.

But first and foremost, who am I and why I am standing here with you guys today? So I'm Jody McDaniel. I'm actually the chief of our Environmental, Economic, and Demographics branch. So my program is split into two areas. I oversee the dissemination of the census of agriculture, which, of course, is a very broad program, but I also oversee all of the annual program efforts, such as the Farm Labor Survey, which I suspect,
Based on Recommendation Number 2, we might talk a bit about today.

So delving in a little bit, just an overview of the farm labor statistics at NASS.

So for perspective, we have two funding streams at NASS, so we also have two data streams, one of those being the Census of Agriculture, the other being the Farm Labor Survey.

So to give you some context, the Census of Agriculture has been at NASS since 1997. It's actually conducted in the years ending in 2 and 7, so that's every five years.

It targets everyone with a $1000 of sales or potential for sales.

So it takes a look at use, ownership, production practices, income, expenditures, and really, the census is the voice for all American farmers and ranchers, because it's that one opportunity that the USDA has to publish that granular level of data all the way down to the county level.

So now, reason we're here today, labor
data. So what do we get out of the Census of Agriculture? We get state and county data on the number of farms that employ individuals for more than 150 days or less than 150 days. We get a farm count.

We get the total number of workers. We also do a more granular approach and do a breakout by farms by number of workers, so categories such as one worker, two workers, nine or more, so you get an idea of the density, and the total payroll.

What you don't get is a wage rate. That wage rate is a function of our annual program, which is the Farm Labor Survey.

So that, in itself, is the basis for employment and wage estimates coming from the USDA. One thing to remember, so my counterparts from BLS and DOL here at the table, NASS focuses on a producer-driven survey.

Our survey goes out to respondents, as we refer to them, or any survey organization does, but our sampling base for the farm labor
program are actually producers that earn $1000 or more on an annual basis.

We collect that data, actually, four times -- or twice a year for four different reference weeks, so those reference weeks are the week that includes the 12th of the month in January, April, July, and October.

We then subsequently publish that data twice a year for 15 multi-state regions. This is in cooperation with our partners from DOL, so we do have a lot of ongoing conversations with Brian, specifically.

Some data that you get out of that, of course, are the number of workers, the average hours worked, and the average hours worked per worker. Quarterly, of course, is when that data is published, even though it comes out twice a year, and then you get hourly wage rates for field workers, livestock workers, field and livestock workers combined, and all hired labor.

From 2014 forward, we've actually been publishing data at a national level for the
standard occupational classifications, so that breaks it out a little closer. So when you -- I think I heard mention picking your fruit or produce here so we can bring the labor in, so graders, and sorters, and pickers are some of those categories.

So that's sort of the history of the labor program and where we were 18 months ago. To bring you a little more up to speed, which, I noticed from your recommendation that you're well aware of the fact that we are -- we've been through a period of about two years of survey improvements on the farm labor program.

At one point in time the sample size was around 14,000, twice a year. The sample size right now has been increased to between 34,000 and 39,000, twice a year.

That long-term goal is to be able to actually, in those 15 multi-state regions, to be able to publish that more granular data down to the occupational level.

So you'll be able to see out of our
report, that'll come out, actually, in November
will be the first time we've published that, it's
going to be an average wage rate for graders and
sorters at those 15 regions.

It's going to be much different.

Another effort, which I saw in your
recommendation, was the base wage rate. We've
done a large amount of cognitive research and
reached out to industry, as well as producers, to
better understand where we can develop the
instrument so that respondents can actually get
the data back to us to set the most meaningful
wage rates, which is, at the end of the day, our
goal.

Those wage rates are going to still
continue to be set in the same fashion that they
always have been. So we will have an average
gross wage rate, which is published four times,
four quarters, a year, which then is weighted and
provide an annualized average wage rate.

In addition to that, we also are going
to be publishing a base wage rate for the first
time this fall. That base wage rate has been the result of some research and finding out how to best help producers give us that data, so that we can make sure that we account for things like piece rate appropriately, which is always a concern.

It's a reporting challenge. So that sort of is a quick rundown. I will be really honest, I think the value is from being here with you and actually taking questions before I turn it over to Brian.

So if you have questions specifically about the NASS program, I'm happy to entertain any of those.
agriculture, so what you're talking about is actually an independent contractor who hires farm labor, so that would be more of an agribusiness.

CHAIR CARR: Right. And the last survey was about 2.4 million employees in agriculture in the last Farm Labor Survey, is that correct; census?

MR. MCDANIEL: Farm Labor Survey or census?

CHAIR CARR: The census; 2017 census.

MR. MCDANIEL: So apparently, I did not plan on talking about census data. I brought the Farm Labor Report, but I'm going to take you at your word that that is -- yes.

CHAIR CARR: I guess where I'm trying to go with this for the group is, we have yet to have been able to find any reliable data that tells us how many hired farm workers there are in agriculture.

MR. MCDANIEL: So there is -- and that's the benefit of having some of our partners here in the room, they do look at a different
universe than we do for population, so again, the
strength of the survey from NASS is going to be
based on our population, which is the producer
themselves, but I fully recognize that that farm
labor contractor component serves a lot of value
and I may misspeak on which labor survey, but is
it QCEW that captures the farm contract?

CHAIR CARR: Right.

MR. MCDANIEL: Yes. So if you have
more specific questions about it, I would
actually say, when we finish both presentations,
maybe more of a conversation about that at that
time.

CHAIR CARR: Well, one thing from just
the industry as a whole is, when we go on the
Hill and talk with our representatives and stuff,
and we talk about immigration reform, not
necessarily what we're talking about right now,
but not having a clear understanding of what our
labor pool really is, really -- especially when
you get into the discussions of caps and
adjustment of status for workers.
It would just be really great to figure out where we could go to to understand what our labor pool size really is.

MR. MCDANIEL: Agreed. Being a statistical organization, we inform policy. We don't enforce policy. So what I can tell you is that, we survey producers and that is our world. That is our population.

So what you're asking for is more of a blended data product that would be parts from each of our specific --

CHAIR CARR: And that may be the goal for me today is just to figure out which one -- which survey I need to take from you and which survey I need to take from them to combine and blend them together.

So talk about your changes. And we are familiarized -- I am familiar with the fact that you're trying to get down to at least five categories on the new survey, and livestock workers, harvesters, or farm workers, and then graders and sorters, I think that you're asking
managers.

MR. MCDANIEL: Yes.

CHAIR CARR: And then I don't know what the fifth classification would be. When you publish those wages at the granular level, being the base, are you also going to publish them as five rates there, and on your gross wages, are you just going to do one or are you going to do gross wages for all five categories again?

MR. MCDANIEL: So it's going to be on the fitness for use, so again, this is the first full cycle of the expanded sample, so we've gotten the first two quarters in, and my staff are analyzing it right now.

Look at the second installation of that data in October. We'll compile those together and what we'll look at is the coefficient of variations wrapped around that data.

And any time that that data supports being published and can be used for the public good, we'll make it available to the most
granular level.

If we find that there's too much variance in the data and it would be misleading, then that data will not be disclosed.

CHAIR CARR: And then, of course, if your counterparts are going to speak, then it's my understanding that if USDA, NASS, is not able to produce a wage rate for a particular category, then they would fall back, under the rule change, they would fall back on their BLS data for --

MR. MCDANIEL: Actually, I apologize, I can't speak to the rule, because even that's DOL, and I would ask that you all do Brian a favor, since it's in public comment, and not ask him either.

CHAIR CARR: That's going to be difficult. So you produce that survey, and that survey is ongoing, and talk to the group so they understand how the impact, or if you know yet, the impact of gross wages.

Currently, when a survey is done, it's basically, how many workers you have, what was
your total payroll for that period, doesn't take
into account whether they worked overtime or not,
it's just a straight wage rate then, correct?

MR. MCDANIEL: So what you get is, you
get -- I come out to you as a respondent and say,
sorry, need new glasses. Hi, Chalmers, you know,
today we're going to talk about labor, we're
going to talk about two quarters. What we're
going to do is split that out into the farm labor
types, so I'm going to assume you have some field
workers.

So the respondent's going to go
through the questionnaire and you're exactly
right, how many laborers did you have? What were
the total gross hours worked? What was the total
gross wage paid? And then we create that ratio
estimate for that wage rate. We don't actually
ask the wage rate, which is a common
misconception.

We ask the numerator and the
denominator.

CHAIR CARR: Right.
MR. MCDANIEL: And then it's weighted and that creates your wage rate.

CHAIR CARR: So making the changes, and I may be going way down in the weeds, in making the changes, how are you going to get to the granular level in terms of -- because I filled out your survey many times and, you know, it's the gross wages divided by the number of people, and you come up with that.

But now you're going to try to separate out piece work wages from --

MR. MCDANIEL: We're not. What we found through research is, asking the -- so keep in mind, we write a survey instrument that's good for all parts of the industry. The group I'm here with today, piece rate is very important. It's a passionate part of the industry.

We don't have a specialized questionnaire just to collect piece wage rate. What we've done is created a one-page supplement that comes with that questionnaire, when you get it in the mail, to help you go into how to put
the data in the right column so it's the most
reflective wage rate.

CHAIR CARR: And how did you go from
1400 -- or excuse me, the 14,000 respondents to,
hopefully, the 39,000? Because obviously, a lot
of the challenge has been, there wasn't enough
respondents in the past.

MR. MCDANIEL: It is a mechanism of
funding. So again, I mentioned the NASS is
funded through two appropriation streams, the Ag
Labor Survey, or Farm Labor Survey, is part of
the agriculture estimates funding stream.

We actually redirected funds from
other parts of the program to amplify that. We
are still receiving funding from the Department
of Labor, so it is definitely a cooperative
effort, but we supplemented that funding internal
to the agency.

MS. HARPER-LARSEN: So does that mean
you've got more people knocking on barn doors, so
to speak, to get respondency or how are you -- I
mean, you're looking at a two and a half times
increase, which is going to dramatically increase
your sample pool, your data collection, your
variances are probably going to get thrown out --

MR. MCDANIEL: Well, actually, the
beautiful part is, your variances with an
increased sample size, theoretically, should
reduce. So that's the beauty of adding more
samples to it.

As far as the data collection effort,
so keep in mind, the Farm Labor Survey is
predominantly a mail, web, and telephone follow-
up survey. We have five regional data collection
centers across the country that seat more than
800 people, give or take.

So we engage them first and foremost.
If there's a specialized operation or a contact
arrangement, we have 3000 additional contract
employees who collect data that are part-time
employees, so they'll be out to get the data as
well.

But, yes, we're geared up. Collecting
data is something we -- we've got it under
control, as far as --

MS. HARPER-LARSEN: Well, I have one

that goes to church with me, so --

MR. MCDANIEL: They're lovely people.

MS. HARPER-LARSEN: -- he waits on us

after church to get out.

MR. MCDANIEL: They're crafty. We

love them, actually. Most of us start our career

in the field, so we work with them closely. So

I'm not aware of their payment structure, because

actually, they work for the National Association

of State Departments of Agriculture, not NASS.

MR. WINGARD: Now, my question is,

going all the way back to, I think, Chalmers'

first question, who can tell me or this group how

many farm workers are in the U.S.?

MR. MCDANIEL: So when you say, farm

workers, you're referring to people hired in

through a business, you're talking about people

hired in through a producer, so recognize the

challenge we have, that we all have different

authorities on the spectrum in which we collect
data. We are charged with collecting data from
the producers.

BLS collects it on the entire
workforce. What I would imagine you have to do,
which, some of our partners in the Economic
Research Service have been researching is how to
harmonize that data across so you get a straight
answer. One government data product.

Right now, there is not one.

MR. WINGARD: So nobody can tell us
how many farm workers are in the U.S. Is that
your answer?

MR. MCDANIEL: I can tell you the
amount of farm workers employed by agricultural
producers. I cannot tell you the amount that are
employed by farm labor contractors.

MR. WINGARD: But is that data -- does
somebody have that data?

MR. MCDANIEL: I would --

MR. WINGARD: I mean, because to
Chalmers' point, as we debate and contemplate
labor --
MR. HUGHES: In other words, it sounds like one of our labor experts may be able to jump in to provide some insights. David --

MR. MCDANIEL: Hiles.

MR. HUGHES: Hiles?

MR. MCDANIEL: Yes.

MR. HUGHES: Come on up for a second.

MR. WINGARD: I mean, you all just tell me true numbers and I'll be happy.

MR. MCDANIEL: You're good. Come on.

It's a question, I'm sorry, but I can't answer.

MR. WINGARD: But I mean, you understand the value to that data for us?

MR. MCDANIEL: I fully do, but it is that challenge of, we all have a role to play in statistics, so fortunately, our partners are here.

MR. WINGARD: So before David starts speaking, just for the group's reference, you don't know -- so there is areas in the country where farm labor contractors are extremely important in the fresh fruit and vegetable
industry, and that's the predominant labor
source, and then there's other parts of the
country where it's direct site employers, where
the farmer employs the labor himself.

So not knowing these two different
pools, NASS is obviously counting the producer
level, but again, we still, and maybe David has
the answer to this, we have struggled to put
these two numbers together to really have an
accurate count of hired workers.

MR. HILES: Hello, you all. Okay. So
I work for the Quarterly Census of Employment and
Wages. I'm in charge of the branch that does the
last review of the data before we put it out and
try to make it safe for public consumption.

Dave Talan is the program manager for
the Quarterly Census of Employment and Wages. So
I'll try and answer some of the questions you
have about how do we -- what kind of counts do we
have for farm labor.

So the Bureau of Labor Statistics,
most of the measures that we put out really are
focused on the non-farm portion of the economy.

You guys are probably painfully aware of that.

The Quarterly Census of Employment and Wages actually does cover a large chunk of the agricultural portion of the economy. So when we say Quarterly Census of Employment and Wages, we're an administrative data program and we base our data on unemployment insurance, quarterly reports by every employer in the United States covered by the unemployment insurance system.

So we don't actually have people knocking on those barn doors because whoever's doing your bookkeeping is saying that to your State Department of Workforce Affairs, the Department of Labor, already.

So usually it's the unemployment insurance tax office. So we think we capture about half of employment in the agricultural sector because the coverage of the unemployment insurance system is based on the size of the workforce at the declared enterprise.

So we're focused on the number of
workers and when we're collecting data, we're interested in, what is the primary economic activity of the worksite that's reporting it. So if it's a labor contractor, we're getting them classified into that industry. And in terms of agriculture, we know there's production, there's the warehousing part, you know, we think about elevators and all that, there's wholesale, processing, you know, processing, and then wholesale and retail. So we have that entire stream of information, but I think you guys are sort of focused -- we focus mostly on the production side, or a little bit of processing, so both is the answer on that. So we put out data four times a year. The next data we'll be putting out is for the first quarter of 2019, and that'll be coming out on September 4th. And the data that we're collecting for agriculture, we have 106,000 establishments reporting to us each quarter. And so we put out data at the national
level, we also put it out by state and by county. And the QCEW program has always had -- our program culture has been focused on local data. So if you're interested in knowing what ag looks like in a portion of your state or the county that you're in, you know, we already have that information.

So what are the data that we collect? Our data items are extremely simple because it's coming from this administrative data source. We're taking employment for the week of the 12th, as we commonly use across all statistical programs, for each month of the quarter.

So I'm just putting out first quarter 2019, so that's January, February, March employment, and we're taking total wages for the quarter.

All right, so what are the total wages? We have no breakout of that wages. We have no data stream that tells us anything about hours.

Now, what we do is, we create a -- so
you've got a total -- quarterly wage total for every industry, and when we're doing it by the NAICS industry classification system, you've got the total wage number for anything down to the six-digit NAICS level.

We also create an average weekly wage number, and that's really a very crude measure. We take the total wages and then we take the average wage for that month one, month two, month three employment, that average employment for the quarter, and then divide average weekly wage, the total wages by 13 weeks in the quarter.

So you guys know that the number of hours that people work move up and down. It's not that regular, but that's what we offer. So another --

CHAIR CARR: If I could interrupt you right there just a minute.

MR. HILES: Sure.

CHAIR CARR: So you do 13 weeks and what do you assume, is it a 40-hour work week, because you said you're not collecting the hours,
but you got a gross wage paid, or reported, and
you're dividing that by 13 weeks to come to a
weekly one, then the next step is, what do you
divide that wage by to get to the hourly wage
rate?

MR. HILES: All right. So you've got
so the total quarterly wage, you've got a wage
for the entire quarter, when you divide it by 13,
it turns it into a weekly wage total. And then
what we divide that by is by an average of the
employment over the quarter, okay?

So total wages divided by employment
gives you the average weekly wage per employee.

CHAIR CARR: So when somebody sees a
weekly wage per employee, how would they
determine that down to an hourly wage per
employee?

MR. HILES: Right. So if you're going
to do that, instead of dividing it by 13, you'd
divide it by the number of hours that you wanted
to arbitrarily assign to a quarter, because we're
doing -- so the thing about -- when I say,
arbitrarily, we pick 13, that works, and then
when you have a, you know, the kind of calendar
that we have, but people who get paid every two
weeks notice that some months you get paid three
times in a month.

So there's some variation in the
amount of pay that gets paid in the quarter, so
you might have seven pay periods in one quarter
and six in the next. Just the way the pay dates
hit.

So we don't know the pay dates of
those records, so we've got 106,000
establishments in ag, we have over 10 million
across the entire industry, and we don't have a
data item in there telling us, you know, what
your pay date is or whether you're paying once a
month or once a week.

So when we add everybody up, people
have different periods of pay. One unusual part
of that is Federal Government, since we all get
paid every two weeks, so we'll have some big
spikes in those quarterly wage numbers.
Another thing that we have is location quotients, which is a measure of the intensity of ag in a particular part of the country. So you can see which part of the country has a greater emphasis on ag, you know, at the county level or at the state level.

So I think the other thing that I think is important for this audience is, what are the kind of employers that we count in the administrative data of this unemployment insurance data that is our base for our data stream?

There's a federal definition that is based on 20,000 wages, 20,000 of wages in any quarter, in the current or prior year, or ten or more workers for one day in 20 weeks in the current or prior year.

And so if you think about the kind of farms that are going to have that, you're basically looking at your larger establishments.

But we actually -- it is actually supplemented in the number of states where
they've taken that federal guideline and asked for a more tighter definition of who's included in this unemployment insurance system.

So for California, you're in our scope and you're in the data that's reported for us, if you have one employee at a time, and wages more than $1000 in a calendar quarter. So that gets to pretty small establishments.

MR. HUGHES: David, let me jump in for a second.

MR. HILES: Yes.

MR. HUGHES: So we're 15 minutes off from shifting to Brian Pasternak's presentation, was there any additional questions that you all have for Jody?

CHAIR CARR: I have one more, Jody.

MR. MCDANIEL: Okay.

CHAIR CARR: Going back to your farm census, back in the number that matters, 2.4 million employees recognized, that is actually owners, operators, and employees other than these employed by farm labor contractors.
MR. MCDANIEL: Yes, sir.

CHAIR CARR: But the question with that is, is that a real number or if you employed a worker and I employed that same worker the next quarter, and then maybe somebody else employed them in the third quarter, because they actually moved around from farm to farm, aren't we all counting that same worker and that worker will be counted three times?

MR. MCDANIEL: For the census of agriculture, there would be that potential if they worked more than 150 days on multiple farms. In the annual program, no, it is the cycle of how the data is done.

CHAIR CARR: Right. That's weekly capture on that, so the difference between that is, and this is where the argument comes from, you got a census data that says there's 2.4 million, but the largest pool you've had on a quarterly basis has been 817,000, I think?

MR. MCDANIEL: Yes, sir.

CHAIR CARR: That's a huge difference
when you're reporting the number of workers. So if you take the -- segue to July, August is obviously the busiest time of the year, it could be, for other people, not, but it's usually about 800,000 workers reported, based on your survey data, but then you got a census data that says 2.4 million, doesn't make sense.

MR. MCDANIEL: Yes, when you connect the two data streams, you hit the nail on the head, you've got the potential to where, because you asked about that for the year 2017.

CHAIR CARR: So in the fruit and vegetable industry, where we have a lot of seasonal work, workers do work from one operation to the next, because just the sheer nature that we don't have work in certain parts of the season, but somebody else may. Citrus in Florida versus onions in Georgia, you know, could be doing some type of work in California, then they go up to Washington state and pick apples.

MR. MCDANIEL: Yes, you're not finding traditional farmhands like where I grew up in
Southeastern Illinois that, somebody works full-time year round, and they fix fence when they're not running a tractor. Yes, you find seasonal work.

MS. HARPER-LARSEN: Do you ask about that in the survey questions currently, you know, how many of these workers work for you X number of days? I mean, couldn't you work out an error rate based on that?

MR. MCDANIEL: So if you go back to the focus and the intent of the Census of Agriculture, it's to inform the broad sense of agriculture, which is the program Chandler had asked -- or Chalmers had asked about.

So if we go to the annual program, because of having that base week set on the 12th of a given month, that systemically takes care of itself, unless you are telling me there are workers who work on five different farms in a given five-day cycle.

MS. HARPER-LARSEN: They may work on two. Maybe three.
MR. MCDANIEL: So when we do a sample of 39,000 farms, so for instance, if you receive a questionnaire, and you're representing X number of other farms, so it's that perspective piece. There's 2.04 million farms, roughly, and we're trying to project the labor for all of those, and we're doing it off of 39,000, so there's a lot of underlying statistical models and things that are done to account for the noise in the data.

MR. WINGARD: Couldn't you ask the question and let the answer -- or ask the question looking for the answer of full-time equivalents?

MR. MCDANIEL: There are a lot of ways we could go about looking at it, so I'll go back to, again, we're drafting a questionnaire to clear the Office of Management Budget, trying to minimize the burden on individuals as respondents, and still reach the broadest audience.

So how we go about doing that is, we collect hours and total wages, and total base
wages, because that's the most applicable across the industry as a whole, but, yes, we could ask, assuming that respondents are willing to give us that data.

MS. HARPER-LARSEN: We have to have that number in relation to full-time equivalency for FSMA data to know what our compliance states are.

MR. MCDANIEL: And I don't disagree, but again, you are part of a broader industry, and what we draft is a questionnaire that's supposed to be workable across all parts of the industry, so ranches in the west, grain farms in the Midwest and upper Midwest, produce farms, so it goes back to, we have to temper respondent burden, provide the data that meets the needs, because actually, the Farm Labor Survey informs two needs.

Most likely the reason I'm here today is because of the adverse effect wage rate and its impact on production agriculture, but also informs the parity priced indices, which is a
measure of the success of the agricultural
sector.

So it's balancing those two primary
data needs.

CHAIR CARR: The last question. You
had on data from January of this year, already
published in April of this year, already
published, do you know what the increases are
versus the same period the year before?

MR. MCDANIEL: As a matter of fact,
those I have. So if you go year to year, so for
the reference weeks, what you're going to find is
that, on average, the average wage is around
$14.71 an hour during April 2019. It's about a 7
percent increase over April of 2018.

CHAIR CARR: Just so everybody knows,
that's generally a straight correlation to what
the annual increase is going to be in your area,
so that you gave the national one, what is the
highest region?

MR. MCDANIEL: I would love to tell
you I memorized all the quarterly reports we
release every year, so if you were to look at wage rates by type of worker for January, for instance, the combined wage rate for all hired workers ranges from, and again, this is a quick scan, slightly less than -- or a little more than $12, and that's going to be in Florida, in January, to almost $17 in Hawaii at the same time window.

So there's a range, depending on your region.

CHAIR CARR: But you're saying, so last year, we all, under the incentive program, witnessed a 6.2 percent national increase in the AEWR, you're already targeting a 7 percent, based on your data, but there were regions, like Colorado, where Bruce is from, that saw a 22 percent increase.

Is there one region right now that is screaming that they've got a pretty significant increase from one year to the next?

MR. MCDANIEL: Beyond Bruce?

CHAIR CARR: Well, Bruce --
MR. MCDANIEL: It's funny, Bruce's region has been screaming. I've had a lot of conversations about Bruce's region.

CHAIR CARR: Is that going to happen again going in 2020?

MR. MCDANIEL: So the thing that I hope I can convey today is that, because we are a non-policy forming, a statistical organization, our job is to collect the data, analyze the data, and put out the best data product that is reflective on what you all are telling us.

I will go to your comment about the impact of the AEWR on what you're seeing on the annual wage rate. We did a special tabulation, we've done it over the last two years, roughly less than 5 percent of the sampled respondents in our Farm Labor Survey actually even employ H-2A.

So I think there's, not saying myth busting, but there's a perception that the AEWR drives what we see in our survey, with only less than 5 percent on an annual basis, and I forget, I don't know the special tab number that it was
calculated off of, it's hard to believe that that is the full breadth of what's causing an increase in annualized wage rates.

CHAIR CARR: Well, I don't disagree with you at all. We got a decrease in supply of labor that is driving wage rates up. Now, having AEWR data out there in certain areas can't hurt you, BLS data in Saluda County in South Carolina versus Edgefield County, is completely different, because one respondent was H-2A respondent, who's put in his wage rates, and so you're talking a $4 difference for the same occupation within 15 miles.

So it is, again, data size and everything, but back to my question is, though, we're trending -- last year, we trend nationally, 6 percent up, you're already saying the first two quarters are indicating a 7 percent increase --

MR. MCDANIEL: That's 7 and 6, but yes.

CHAIR CARR: Okay. And there was some pretty big hits out, especially out in the
Colorado, Wyoming areas, and producers need to know if they're going to see this again. I mean, 7 percent already is tough.

MR. MCDANIEL: So the one piece, and to speak specifically, so to go back and look at a trend line over a three-year cycle for, and, Bruce, sorry to pick on you, in Bruce's area, no one reached out to us in that two years out of those three years, where there was actually a declining wage rate on an annualized basis.

It's funny how data works that way. When you take it over a three-year cycle, they're showing the same percent increase as across the country. It just so happened that they're increase became very prevalent in one year's data.

So I'm painfully intimately familiar with the study. I spent the better part of my last six months having conversations about it. What I can tell you is, there were no anomalies in that data. The data is solid. The variances are tight. It is truly based on what producers
And there is a sample, so it is a sample of producers, and you have to take that into account, but it is very -- it is a reflective wage rate for what is reported.

I'm waiting for Darrell to pull me off the machine.

CHAIR CARR: David, back to Charles' question again, I think you said it, but how do you distinguish a farm labor contractor, is it by the employer's identification number that identifies him as not only as a farmer, but as a farm labor contractor?

How can you identify that -- how could I go to your data and ask you to tell me how many employees worked in July the 12th for a farm labor contractors in our force?

MR. HILES: We get that, and I'm going to follow-up on one other question about what happens with people who work in different establishments.

So we would call it a multiple --
somebody who has multiple job offers. So say
somebody works in a farm and also works in town,
right? Our data is reported by employers, okay?
So if the person's working in the farm enterprise
and there in the scope, that's a count of one
employee in that.

And then they're working in town in a
department store, so we count one in that
department store as reported as well. So one
person, two jobs.

So how do we put employers into
economic categories? So when an employer enters
operation in the state, they have to register
with the state unemployment insurance agency and
they have to sort of self-identify, what are they
doing?

There's like a -- you know, you got to
a website, and there's a pulldown thing, and you
try and find one that sort of matches what you're
doing. And in many states, you'll type in a
narrative as well.

So that'll be your initial self-
coding, and then there'll be a quality control
work on that later one where we sort of see, does
that match up with what we're getting for that
employer.

That's the first time the person --
the employer shows up in our system. We also
have a three-year cycle where we re-contact
people saying, three years ago, you said you were
doing Department of Labor contracting in, you
know, in the Washington area, are you still doing
that?

And they'll say, well, I'm still doing
that work or I switched over to something else
and I'm now in a different county.

So we're refreshing that
classification every three years.

CHAIR CARR: My next question has --

MR. HILES: So it's nothing to do with
the EIN. We do have the EIN, but we're basing it
on --

CHAIR CARR: The occupation code that
they put in.
MR. HILES: It would be their industry code, so that we don't have any occupational information.

CHAIR CARR: So you go to these multiple classes of equipment operators, versus harvester, versus agriculture, how are you going to --

MR. HILES: Those are all occupational.

CHAIR CARR: That's all occupational, so that wouldn't be covered under your survey?

MR. HILES: So if there's a company that's providing that service, so if there's a harvesting company that's coming in and running people's fields, right? That company is providing an agricultural support service. I can't remember exactly which one it would be.

So if that's what that company does, that's the primary job activity of that company.

CHAIR CARR: Well, let's take citrus harvesting in Florida.

MR. HILES: Okay. So you have a big
crew that comes into an orchard?

CHAIR CARR: Right. And they come in with --

MR. HILES: So if they're not employed by the orchard owner, they're contracted.

CHAIR CARR: Right, right. And some of them are harvesters, some of them are equipment operators, and they could be supplying the packaging down the road, packaging that harvest as well, how do you determine the wages for those three different classifications when that employer most likely is filling out one -- that he's doing one service?

MR. HILES: Right. So this is all dependent on how the employer decides to organize his activity. If he wants to separately organize his workforce so the people running equipment are a different company than the one that's doing the, I don't know what you're calling, the picking or some other activity, then we would say, okay, well, you've got Company A, you've got Company B, and Company C, they're all actually
run by Enterprise Z.

But if they're saying, here's these three things, we're saying, what is the specific thing each entity is doing?

MR. HUGHES: Okay. Let me jump in really quickly. Because of the drilling, it's getting hard for Sam to transcribe and catch everything. I'm going to have multiple mics come up so that we can place them on the table and have them amplify the volume.

If you're speaking, I'm going to ask everyone to standup and project until the mics get here so that we can get everything on the record.

And you can go ahead and finish speaking, speak directly into the mic so that it captures it.

MR. HILES: All right.

MR. HUGHES: You're up next in, like, two minutes to transition.

MR. HILES: All right. So any other questions?
CHAIR CARR: So again, Chalmers Carr, so that's still -- right now, because the H-2A program doesn't require different wage rates, one wage rate, no matter what, for farm workers, you don't have a subset of data to use going forward. That's what I'm concerned about it is, how we're going to make this transition when a farm labor contractor or a fixed site employer, I have grader, sorters, I have equipment operators, but I only report one wage.

MR. HILES: Right.

CHAIR CARR: So where's it going to be a starting point for this? How are we going to get started with this?

MR. HILES: Well, so the farm labor contractor will be doing the reporting to the tax group that we eventually get hold of that data. And there's no industry classification that's called H-2A. That's a type of worker and we're looking at, what is the economic activity, not the type of employee, so we don't have the occupational stuff.
Department stores have lots of truck drivers, but I just -- we just know that they're a department store. They do the department store, they have the retail location, they have a warehouse, they have a corporate headquarters.

Warehousers are classified as warehouse industry, not in department stores. So you had a question in the corner?

MR. WINGARD: I just want to know, how do we tell how many farm workers are in the country, because as we debate, potentially, a new guest worker program, we need a number that we can hang our hat on.

MR. HILES: All right. So we count those people that are in those bigger establishments, right? And so when we compare our count of agricultural employment, we're counting it -- we're comparing it against the household survey that the BLS conducts that has a national number for agricultural employees, which includes people that are self-employed and also people that are on -- in a wage and salary job in
the agricultural sector.

And that's the household survey, and

that's -- they have an estimate there, and what

our number coming out of our thing for the larger

operations, is about half that count.

So, you know, I'm not going to tell

you to multiply it by 12, by 2, but some people

might do that. And the thing is, like, for

California, I was talking earlier that some

states, a number of states, tighten up the

definition so they're getting the much smaller

establishments.

California, Washington State, one

employee, and then they have an exclusion for

labor that's working there between school terms,

so your summer, you know, kids from high school.

Florida, 5 employees in 20 weeks, Texas, 3

employees in 20 weeks, Minnesota, 4 in 20 weeks,

so those are the exceptions for that -- the much

looser category specified by the Federal

Government.

So I think if you wanted to get that
universal count, it might be that that current population survey number might be a good one to take a look at.

MR. WINGARD: Maybe NASS should ask one question, how many workers worked on your farm or how many contract workers do you have, instead of relying on your contractor to go to a different -- to reply to a different survey.

I know we're running out of time.

MR. MCDANIEL: I'll entertain the question and then I'm going to transition it over to Brian, which is who you all probably really want to talk to.

So I appreciate that you think it's that simple, and I'm sad that we aren't giving you the data that meets your need, so what I would offer is that we always have a public comment period when we put out a federal register notice for the program.

If this committee finds that there is a sliver bullet that, clearly, we cannot articulate from the federal sector, we are happy
to investigate how to best do that.

    I appreciate your question, but in all
honesty, if you hire a farm labor contractor, do
you know how many people they have running that
equipment at that orchard in Florida? Do you
honestly care how many bodies they have on the
ground, because we need to know the number of
workers, not that the work is done.

    I would assume, as producer, you care
that the work got done and how much you paid.

    (Simultaneous speaking.)

    CHAIR CARR: I think we do.

    MR. MCDANIEL: When we went out to do
cognitive research, I appreciate that you're
telling me you know, but I'm also -- we were not
able to get that data. People were not willing.
Yes. Thank you, Darrell. Thank you, all.

    MR. HUGHES: All right. So before
Brian talks, I was successful in convincing the
contractors to stop doing what they were doing
and move on to something else, but just in case
some boss tells them that they need to go back to
working, I'm still going to have them come in and
-- did they come in and put mics already?

CHAIR CARR: No.

MR. HUGHES: They haven't? Okay. So
if that happens, we'll just keep going with the
flow, but come on, Brian. If you don't mind, can
you self-introduce while I --

MR. PASTERNAK: Yes, I will. Good
afternoon. I'm Brian Pasternak, Deputy
Administrator, Office of Foreign Labor
Certification. I work for the U.S. Department of
Labor.

Been running the employment-based
immigration programs in Labor for about the last
15 years at the federal level. I used to work
for about six years with the Department of Labor
in the State of Maryland, involved some of these
programs as well, so it's a pleasure to be here.

I do want to say that for this H-2A
program, the department has two pending
regulatory actions designed to modernize the H-2A
program. This, as I understood it from the
request, we were -- I was to talk a little bit
about the current state of the program as it
exists.

If there is a need to discuss part of
the proposed rule, then I informed Darrell that,
you know, I got to do the APA requirement of
filling out the ex parte form, I have to get the
names of everyone here, and provide a summary of
the discussion, so my intention was not to come
today and talk about the proposed rule, the large
one, which is part of the president's initiative
to modernize the whole H-2A program, or big parts
of it, was not something I was to discuss today.

So if the question comes up, just be
aware that that's what I'll have to do.

Can you turn to the next one there?

Coming into this program is not for the faint of
heart. People think of it as a three-legged
stool, but it's actually a four-legged stool, and
we are the first step in the H-2A program.

Growers have to file applications with
us, that's what our office does, our customer is
the employer. We don't deal with foreign
workers. We don't get into visa status or
anything like that.

So we are looking at the employer's
need, we're looking at whether or not the work
that they need performed qualifies as
agriculture, and I'll talk a little bit about
that in a minute.

We help facilitate the labor market
test and there's no U.S. workers that have
applied, that the grower can lawfully reject,
we'll provide certifications, and then they're
moving on to USCIS, which also kind of deals with
the customer, the employer, to classify their
request for workers under the H-2A visa.

But then the immigration system shifts
and turns on its head, and it moves to being a
more worker-based system, where the foreign
workers are working with labor recruiters, or
agents abroad, and they're going to consulates to
get interviews, and then they got to make their
way to the border, cross CBP, should they get
issued a visa.

So at any point in this process, which is a really fragile process, any grower could be denied any part or all of the workers, even from the start, once I even issue a certification.

Part of the reason why when you look at data in the immigration system, in H-2A, from where I start to where there are entries and exits out of the system, the numbers don't matchup because the numbers I see at the front end of the system are jobs. They're not associated with a person yet.

And in many cases, growers are estimating, at the time that they're filing with me, what they think they need.

We do have a bit of a practice in the office that we don't really, you know, question these numbers that you're asking for unless they're kind of wildly different from prior applications you're asking for. And we may ask for an explanation about why you need more or less in a certain year.
We don't tend to get too involved in what the grower's actual need is, but we also don't, sort of, count it against the grower if they are, you know, maybe through an audit or something, we find that they have employed 75 or 80 percent of the workers that they got certified for, there may be very legitimate reasons, based on climate or harvesting activities, or something like that, that may have not -- haven't had a need, actually, for all those workers they got certified for.

I think I'm on my own here. All right. And I didn't intend to go through all the slides. I always handout a few more slides than you really need, they're just good for reference purposes.

This is a picture of the program since '08. This is the fastest growing visa program that I got in the office, by far. We did more than 11,000 certifications last year. That's the largest I have done.

We've actually exceeded 12,000 already
this year, and I still got two months left in the fiscal year, so we are even heavier on volume this year than we were last year, and I'm just quite -- I'm not certain I'm going to be able to see the -- and I don't know where the ceiling is on this program just yet.

You know, we're up near a quarter of a million, we'll probably get near about 270,000 this year, so that just sort of builds on the double-digit increases in the program.

You can see from the slide here that we have about a 97 percent certification rate. That's kind of an approval rate. So that should sort of tell you that, if you're a grower out there and you want to use the program, there's about a 97 percent chance you're going to get certified and be able to move forward, okay?

So it's not a denial-based program. The other is that the interesting stats that I like to point out is, you know, even though we issue almost 2/3 of the certs, 62 percent of the decisions we issue do go to an individual farm or
ranch; ranching operation.

If you look at the proportion of the labor needs that are going to farms, 42 percent of them are being filled by labor contractors. I think Chalmers made a comment about that and we have some pretty intense areas of the country that use the program and they predominantly use labor contractors, which is a perfectly valid business model.

But they are predominantly almost employing one out of every two workers that we're certifying, or demanding for jobs, and the trend down there for the top five states kind of shows you where we were about ten years ago and where we're at today, or last year, and it's even higher for those states today.

CHAIR CARR: Brian, can you speak to that statistic right there, the 43 percent of farm labor contractors, say, back in 2012, '13, when we were down at the 60,000, what was the ratio then?

MR. PASTERNAK: About in the low 30s.
CHAIR CARR: It's believed that a majority of this growth that's happened in the program is happening through farm labor contractor employment --

MR. PASTERNAK: Correct.

CHAIR CARR: -- but not necessarily farmers participating in the program.

MR. PASTERNAK: Correct. Yes. Absolutely. We were seeing a lot more demand for use of the labor contractors in the program, which, quite frankly, is servicing dozens of individual farms, so we totally get that.

This is just another snapshot of how our workload looks. The last chart I showed you is year-to-year demand, this is a look at how the growers come to us for workload needs -- or labor needs, during the course of a calendar year.

When you look at the blue line, which is 2008, versus what we got in last year in the program. So you can see one of our issues that we have, because we process these applications for employers -- I strayed from the mic, can you
Sorry. If you look at the top end of the blue line, in January, there was one point of the year where we got, you know, about 1,000 applications in that month. And that's a lot of the early planting season, kind of, applications that we get.

Last year, we saw at least that volume for almost five months out of the year. And I used to be able to staff this program and our processing centers pretty equitably, where I could put a lot of people on the processing line in January and February, work through a big bulk of applications, and then move them off to work H-1B applications, or 2B applications, or green cards.

And now that same workload is bigger and lasting longer in the processing center, and it comes twice a year.

So it's a program that is really, really taking off. And I think at, sort of, last estimates, we're talking about what's the total
size of the farm labor force, you know, when you're doing 270,000 jobs and you may get 2.4 million, or it's probably a little bit higher than that, you know, that's almost 15, 20 percent of the domestic labor force in this country and agriculture possesses an H-2A visa.

MR. ERICKSON: You're describing 2019, right?

MR. PASTERNAK: This one is last year.


MR. PASTERNAK: And it's even more sustained this year. It's pretty close to the same.

MR. ERICKSON: Just, like, for my visual -- for my brain, could you, like, kind of, like, draw a line there for what you think 2019 looks like?

MR. PASTERNAK: So taking in, again, sort of, one more month, at this filing volume level, right, so it's getting much bigger. And, you know, driving the demand, yes, I mean, it's the labor contractors, but also, I mean, the
domestic farm labor force, I mean, there is a
fairly strong demographic crisis coming in
agriculture.

And I don't care if you say the number
is 2.4 million or 3 million. When the average
age of that population is in the 40s, are
demonstrably not migrating much anymore, are
staying retained with the same employer they
worked for for longer, and their kids aren't
being trained to go into the fields, I don't care
what the number is, there is a demographic
crisis, because that's not the available labor
pool.

If you stop and think about it, the
big number is not the available labor pool.
That's not the group of people who might be
interested in these kinds of jobs.

So to think the conversation is
clearly more nuanced about, what does the
domestic farm labor force really look like from
the demographic standpoint? Because I see a
demographic crisis in agriculture is, really, the
farm labor.

I mean, my girls are in high school, one going to college, they haven't been trained to work in the fields. They're being asked to go into STEM. So where is the labor coming from?

CHAIR CARR: Well, you started out with saying, you don't know where the ceiling is of the program, and we sat here 15 minutes before that trying to figure out the labor pool, it's somewhere between NASS' 812,000 on a hired week, and the farm labor contractors employee base, which is probably somewhere truly about 1.4 total.

MR. PASTERNAK: Mm-hmm.

CHAIR CARR: You take 90 percent of that, that's your ceiling in ten years. You're going to get to that level in ten years in this program.

MR. PASTERNAK: That's probably pretty realistic.

CHAIR CARR: There's nowhere else this labor's coming from.
MR. PASTERNAK: Yes, in my comment about the 270,000 divided into the 2.4, it's actually 270,000 into the 1.4. It's worse. The penetration rate of H-2A visa in agriculture where agriculture sector is needed, is higher. A lot higher.

CHAIR CARR: What is your percent of reducing an employer -- because you have to do your labor cert and make there's no labor, what percent of these in the recruitment process are numbers actually lower from what an employer puts down based on the labor survey saying there's workers available?

MR. PASTERNAK: Hardly any, because the labor market test, and I'll get to this in a second, because the processing time, which is predominantly defined under statute, when you can file, when I can issue an initial decision, and when I have to issue a cert, is so crunched that there's absolutely little actual positive recruitment that a U.S. worker could affect my decision.
That's why the program has something that's called a 50 percent rule, which is a method of how the program deals with allowing a grower to move forward to bring in foreign workers to give American workers a continued opportunity to possibly see the job and apply for the job.

So the certifications and the processing these applications, on average, are anywhere from 15 to 20 days. There's only one visa program that I process faster than that, and that's H-1B, and the whole reason it's faster is because Congress said, you got seven days to get rid of this case. Yes, sir.

MR. SMITH: Has there been any thought process to allowing H-2A workers in a processing plant that does fresh produce, or, like in our case, we do tomatoes, fresh tomatoes, but we can't use H-2A workers in the factory because that's classified different, but it's a farm product, and it's the same problem of availability of workers that's in the fields.
MR. PASTERNAK: Yes, I think much depends on like in particular if you own the facility, is the facility located on the farm, off the farm --

MR. SMITH: It's off the farm.

MR. PASTERNAK: Yes, I mean, some of the issues around what, and this is what I was going to get to before, or on this page was, the work has to constitute agricultural labor services, which are effectively defined by Congress under two statutes, that are, although broad in scope of the services that might be incorporated, have some built-in limitations around where that work is being performed and by whom.

MR. SMITH: So is there any chance that that could be changed at some point from a Department of Labor standpoint?

MR. PASTERNAK: So again, what I'll say is, Congress set the statute up to provide two statutory definitions for what constitutes agriculture, Fair Labor Standards Act, Internal
Revenue Service, I heard a comment made about, or one of the recommendations about, 51 percent and all this other stuff, I mean, that's not an Executive Branch decision. That's actually statutory by the Internal Revenue Service.

But the statute also permits the Secretary of Labor to define agriculture, other forms of agriculture, to be incorporated in H-2A, and that is a regulatory issue, again, which we have out on the street today.

MR. SMITH: Yes, because we can't use H-2B because we don't start harvest until August and all the H-2Bs are all gone way before that.

MR. PASTERNAK: Yes, exactly, you're way late in the H-2B season. H-2B has its own issues. For policy reasons, Congress did not want, you know, an unlimited number of workers coming in on H-2B, that's for sure.

So let me just say that, here, who's using the program? We talked about H-2A labor contractors, agricultural associations are, sort of, set aside. Under the law, they can use the
program in three ways. They can file to employ
workers directly, they can file on behalf of one
of their members as an agent, or they can file as
joint employers with multiple manners.

So we have a mix in the program. We
have some associations using the program in
different ways for their members. We do tend to
courage the association model because we do
think that you can get some economies to scale
with members being able to file big master
applications and individual members can share
labor and transfer labor as it's needed, so
there's some other built-in flexibilities.

MR. SMITH: I got it.

MR. PASTERNAK: You got it? Can you
go back real quick? Sorry. And then the other
issue that comes up in the H-2A program is --
well, it's not too often, but it's this last
bullet, this last one about the need being
seasonal or temporary.

We really, demonstrably, the work is
seasonal. There might be some occupational areas
that could cause some issues in the program
around whether or not you're really using the
program for temporary work purposes, or are you
really -- is it really a permanent need that you
have for this job.

Agriculture is kind of a funny area.
I mean, we have bread-and-butter harvesting,
planting, cultivating, jobs, but there are other
fringe jobs that are supporting the farm labor
operation, like, packing, on farm, or camp cooks,
or housekeepers taking care of housing for your
farm labor force.

They can actually get H-2A visas
because they're actually performing work that is
in conjunction with the farming operation. You
can do -- we certify crop dusters or farm
equipment mechanics that operate and repair
equipment in the fields, things like that, so
there's some areas of H-2A that most people don't
know about that can qualify, depends on the
circumstances, but there are some built-in
limitations.
I do want to talk about wages for a second. There was a lot of discussion about the AEWR. H-2A is very unique among any program I got around wages.

CHAIR CARR: We got one question, Brian.


MS. ELLOR: In the work that Chalmers and Brad did, in the recommendations, they pointed out that the ten-month inspection on statutory, that's regulatory. And I work in the mushroom industry, and of course, we can't participate --

MR. PASTERNAK: Are they underground mushrooms?

MS. ELLOR: No.

MR. PASTERNAK: Oh, okay, because we had some underground mushroom group in Pennsylvania recently.

MS. ELLOR: Of course. And they were able to get their visas --
MR. PASTERNAK: No. You're going to work.

MS. ELLOR: And of course, lots of agriculture has gone to year-round work, so is that something you can address --

MR. PASTERNAK: I didn't hear that.

MS. ELLOR: -- regulatorily, through regulatory means, as opposed to a legislative?

MR. PASTERNAK: Yes. Yes, to answer your question, yes.

MS. ELLOR: To work that into the wherever the ten-month --

MR. PASTERNAK: Yes, I'm just -- sure, I mean, I understand that the definition of what constitutes work that is temporary in nature, it goes back to the '70s. The Labor Department had a policy back then that they denied every application that lasted longer than 11 months.

Resulted, when the immigration law was passed in '86, and that was the '70s, and the '86 law was passed, there was a big fight between INS and Labor about what would constitute a temporary
job, and there was an OLC opinion, which led to what you see in USCIS' regulation, that the job last less than a year.

But they, in themselves, wouldn't approve a job lasting, likely more than 10-1/2, or 11 months, or 10 months, for that matter. The ten-month issue came up because of, ironically, a permanent green card case that was processed in the mid '90s, called Vito Volpe.

And there we had a landscaping employer trying to use the permanent green card program to employ a worker for nine or ten months out of the year. The judge in the case said that any job that was recurring, any recurring seasonal or peak-load job that lasts longer than ten months is inherently permanent in nature.

So people talk about the ten-month rule. It's a longer history of both what power the Labor Department in the '70s had been reviewing the concept of the temporary need in conjunction with other court decisions that have been issued.
And of course, if you read the herder rule that was published 2015 in the last administration, there is a ten-month rule for range production of livestock that's not sheep or goat herding, right?

So then that sort of became part of the, sort of, codifying some of that. Outside of that, we don't strictly deny out of ten months if it's longer, but we raise -- it raises a question which then you have to explain to us how the nature of your need is temporary and not permanent, okay?

So it's a threshold. The ten-month issue is a threshold. It's not a regulatory provision, so you're actually right about that.

MR. WINGARD: I want to make a comment about that, and I don't mean to be smart here, but perhaps the length of the contract should be based on how many months we want to eat, because, I mean, we talk about our food supply here.

MR. PASTERNAK: It's not based on how much you want to eat, it's based on the need for
your services, and I understand what you're saying, although, I know that there's a lot of industries out there that can produce back-to-back contracts for services.

So organizing your operations based on strict contracts, is that what you want to do, to fit into a window, isn't really a natural need. It's an artificial need, particularly when this is supposed to be a bit of a seasonal agricultural program.

So I guess I'm a little skeptical about that. We see this being artificially driven in non-agriculture is in construction, where people do exactly that, organize their contracts for landscaping to fit a particular window.

MR. WINGARD: I understand, and I just want a deal that allows Americans to feed Americans here, but I want to ask you about deadlines. What happens if a grower or an applicant misses a deadline in this process?

MR. PASTERNAK: Which deadline?
MR. WINGARD: Well, like, if I got a
deadline to get you something and my people don't
get it to you --

MR. PASTERNAK: Sure.

MR. WINGARD: -- does my application
get kicked out or does it just get stopped or?

MR. PASTERNAK: That's a good
question. So we have windows in which we believe
that growers need to be filing their
applications. We don't have a whole lot of non-
compliance around windows for filing for us.

If there's a piece of document that I
need, workers compensation documents, or farm
labor contractor license, or housing
documentation that I need, we're not denying
those cases. We will hold them. We'll keep them
in abeyance and we'll keep reminding either the
grower, or the state workforce agency, or whoever
I need to get that document from.

Look, we've got this application, we
need this document. Used to be back a while ago,
there was a policy to deny these cases and just
reject them, kick them out. But the denial at
our level is pretty much a death blow and you
have to start the whole process over again, so we
do hold them.

MR. WINGARD: Well, I appreciate that.
I reckon my main message here is, we had a couple
of situations where we were just transferring
workers from one state to another, because our
production moved based on time of the year, and
it took, like, 22 extra days to get the workers
approved to get on a bus and travel 300 miles
down the road.

So I had a lot of product in Florida,
and no workers, a lot of workers in Carolina, but
no product.

MR. PASTERNAK: Sure. Yes, it depends
on where you're at in the process, because if you
got certified, there's certified job
opportunities and all you need to do is transfer
status of those workers to the new covered
worksite from us, you're dealing directly with
USCIS.
MR. WINGARD: Well, yes, I don't know which part of the government it was, but my point is, when we hit all our deadlines and the government can't, and we're dealing with crops that grow in 25 -- well, not 25, probably 30, 35 days, then all of a sudden it becomes kind of painful because we got crops we can't get out of the field.

MR. PASTERNAK: Yes.

MR. WINGARD: And I got orders I can't fill.

MR. PASTERNAK: Don't disagree with that. That's a big problem on the government's end. Part of the reason why when I was showing the volume slides is, a lot of modernization and a lot of electronic filing stuff that we do in our -- in our -- at our level, and there's no electronic filing going on at USCIS, maybe there is now, I don't know, is there?

MR. WINGARD: Electronic filing? Yes.

MR. PASTERNAK: Electronic filing.

Okay. For all the right paperwork?
MR. WINGARD: Not all the right paperwork.

MR. PASTERNAK: All right. We have no recourse but to try modernizing all the proposed ideas that can streamline the program, maybe to even give us less workload at the front end, or provide more flexibility for the grower, or us, to be able to issue decisions or move -- take the next step on it.

So a lot of what we've been doing is in reaction to a lot of the volume that we've seen, typically because we know we've got timelines we have to try to meet.

MR. SMITH: And, Brian, to that point and to Chalmers point, and I know you don't want to talk about the new rules, but under the current rules, as a fixed site employer, he has to have an application for his farm in South Carolina and he has to have a completely separate one for his application in Florida, and he can't move those workers from one to the other, he has to actually transfer them.
But if Chalmers were to register himself as a farm labor contractor, and listed both of those sites on his application when he did it, he would have been able to move those workers from one place to the other without doing any transfer.

MR. PASTERNAK: As long as they were in the same area and same employment, which is the biggest problem with the labor contractors, is, they tend to stretch their worksites too far and they get denied, or they get questioned and they're told, you can't have that same -- those same worksites on an application.

CHAIR CARR: I will say that the delays have gotten better. They're not near as bad as they were a few years ago, maybe.

MR. PASTERNAK: Where are you from?

CHAIR CARR: I don't know if I want to tell you.

MR. PASTERNAK: The state.

CHAIR CARR: South Carolina.

MR. PASTERNAK: Oh, okay. All right.
CHAIR CARR: And to that point, right, I do the same thing, because I'm --

MR. PASTERNAK: I'm like you.

CHAIR CARR: But, you know, we file six a year and this is the last two years has been better than the previous four, but even then, so we've never had a contract delay from DOL and in regards, even going through notice of deficiencies and everything else, so I know your workload has grown.

And I do understand things that are in the proposed rule to even make that better, because I'd somebody that'd benefit from some of those. But, you know, you're going to have to deal with this, and I know you're trying to get funding and everything else, but this growth at 23 percent is only going to get -- it's growing that fast and so we know challenges are in front of you.

There's other challenges with the Department of State with the consulate notice.

MR. PASTERNAK: Yes.
CHAIR CARR: But your team has been doing a great job.

MR. PASTERNAK: I appreciate that comment and I think one of the frustrations that we have around the funding issue is that, this is a public, you know, piece of information, we are appropriated by the Congress. We're dependent on the Congress doing its job on time and giving us adequate funding.

And we do propose ideas for funding and things like that, but, boy, I tell you, when you get a shutdown, we don't work. And there was a time in 2013 where we got shutdown for three weeks and I thought, when I came back in the office, I thought it was a hurricane had hit the country, because I was hearing from Florida and I was hearing from Arizona, and California, and Washington, who needed all these fall harvesting orders, and we couldn't work on any of them.

So the only fortunate thing for us was, last year, remember the government shutdown we just went through, they did get our budget
passed on time. If they hadn't of done that, and we got lumped into the Homeland Security Bill that went with that 40-something day government shutdown, we wouldn't have been on the job.

Nobody would have been able to access the program. There's no provision for going around us.

MR. HUGHES: I want to jump in real quick. So we're at the 15-minute break mark. We could just keep going until, like, 3:15, and push the break to 3:15, or go ahead and take the break now and then have you come back after the break. It's your call.

MR. PASTERNAK: Okay. So we're on wages. And you guys talked -- we already talked a lot about wages. H-2A is unique because we've got a wide array of different wage considerations. AEWR is just one of them, but there is another concept called prevailing hourly or piece rate wages in this program. Talk about that in a second.

I hardly ever see collective
bargaining wages. And then of course, you got federal and state minimum wages, but those are irrelevant, because the AEWR basically dominates everything, as we were just talking about. Go ahead and change the slide.

You all know, we do work with Jody, we work with the NASS staff with the farm labor survey. Our role in that, and I want to be clear about it, we do provide the financial, some parts for financial support for that survey. I'm the lead working with the NASS folks.

We don't get involved in our office in collecting data, we don't get involved in calculating anything, we don't analyze data that comes in, I literally get the data when you get it, when it comes out in the public publication.

So it's a set of numbers that we get from USDA and this sort of use of the Farm Labor Survey has a mass history to it with the Labor Department, dating all the way back to 1986, '87, when it was first used as a source for the AEWR by the Reagan administration.
The Labor Department was sued on its use, defended the use of it, and ultimately, they've been using it ever since.

There is a very strong, I would say, form the last administration, defense in our current regulations for using this survey because of who it does serve, not -- you know, no offense to our BLS counterparts, but BLS was a data source that was used for one year in the Bush administration, based on the different policy determination, and since then, we've been back to the USDA Farm Labor Survey.

So we don't typically get involved at all with the calculations or anything. The NASS staff handle all that.

CHAIR CARR: So, Brian, but can you speak to who owns the definition of the adverse effect wage rate? Was that out of the language or is that through the Department of Labor?

MR. PASTERNAK: That's the Labor Department regulation. Yes, it is, and thank you for mentioning that. So that is the weighted
combined field and livestock hourly rate of pay
that we've been using for years.

And it just operates as a mass wage
floor. So I think the -- you know, and this is a
factual statement, wage floors can be horribly
inequitable in any sort of employment situation,
and agriculture can be really bad, because you
basically, theoretically, you can pay the picker
$15.03 in Washington State, and the supervisors,
H-2A supervisors, could be paid $15.03.

We have construction laborers that can
qualify under H-2A to build livestock pens on
farms, you can get an H-2A visa to be -- as a
construction laborer to build livestock pens to
maintain livestock, well, the construction wage
in a local area could be at least double, you
know, what the AEWR might be.

So the disadvantage of the wage floor
is that it is a broad-based wage for everything,
everything, and it's combined. And so we don't
make distinctions when we're looking at an
application and it's a grain harvesting
operation, or it's an apple harvesting operation, or it's a camp cook, or it's a construction laborer, the same minimum wage is still looked at.

CHAIR CARR: But out of the IRCA definition in '86, which is where that was derived from, it was designed to make sure that foreign workers did not depress wages for American workers so that producers wouldn't choose to go get foreign workers over American workers, correct?

MR. PASTERNAK: That's the intent, yes. Actually, you would likely more to find that in the Congressional record, as opposed to the actual statute, because statute doesn't actually mention the word AEWR, more the Congressional record and the history that went with the '86 law mentioned those things.

CHAIR CARR: So my question earlier was, is what was the number of, you know, certifications you lowered because of recruitment, and you said hardly --
MR. PASTERNAK: Yes.

CHAIR CARR: And it's less than 1 percent.

MR. PASTERNAK: Yes.

CHAIR CARR: But more importantly, then you went on to 50 percent. What does your data say, out of all the H-2A employers, the 11,000 certifications you did last year, going through to the 50 percent point, how many U.S. workers actually took those jobs?

MR. PASTERNAK: Sure. So that's difficult to answer because we don't -- growers, and you know this, you're not required to give me your 50 percent recruitment report.

CHAIR CARR: Right.

MR. PASTERNAK: We sort of say, we'll pick it up on an audit if you get audited. Now, we only audit a sample of H-2A employers to begin with, but form the sample data that we've been given, we have seen factually that most American workers, and a lot of them tend to be the returning workers, like, the people you may have
had in the prior season coming back because they
like to work with you, or things like that,
predominantly, those workers are coming somewhere
near the start date, 30 days after, but then it
really drops off.

It really drops off. And those
workers getting picked up by the grower, doesn't
mean they have to kick the H-2As out, right?
Your H-2As are now onboard by the time some of
that happens, the question is going to be whether
you got the housing for everybody, you have the
full-time work for everybody, that kind of thing,
so growers don't have to actually get rid of
their H-2A workers, but they do have to make a
business decision about whether they can take on
the American worker and also fully employ, you
know, the H-2As.

But it's still, again, it's not going
to be a large percentage of American workers
still coming, once you get past 30 or 45 days, it
really, really drops off. It goes next to
nothing.
Does that answer your question?

CHAIR CARR: I think I'll have a follow-up comment.

MR. PASTERNAK: All right.

MR. TISON: How does your numbers play with states that are raising their minimum wages up to $15 an hour? And how's that going to make -- what kind of adjustments are you going to have?

MR. PASTERNAK: None. None. Depends on who it is.

MR. TISON: I know in Florida, we're fixing to have a voting initiative to raise it to $15.

MR. PASTERNAK: Yes. I know in Maryland, and I come from Maryland, and the problem with the state minimum wage law is, you got to be careful, you have to pay attention as to whether or not certain groups of workers are being excluded from the state minimum wage law. That's the other thing that is kind of hard for us to deal with.
But my home state of Maryland did pass a law to try to get to 15 bucks an hour for -- over, like, the next five-year period, so we do pay attention to the updates from the states on their minimum wages, but for us, we have to do one more deep dive and we got to at least look at the law to see if there's any exclusions for ag workers.

I mean, Maryland, for example, the seafood processing industry has an exemption for the state minimum wage law.

CHAIR CARR: But to answer your question, Washington State has one of the highest state minimum wages --

MR. PASTERNAK: Yes.

CHAIR CARR: -- and it's the second-fastest H-2A growing state in the country.

MR. PASTERNAK: Yes, that's right.

Exactly.

CHAIR CARR: Brian, my comment was, is through the data that we know, and we provide it internally, but also through the organization I
work with, it's less than 5 percent of Americans actually apply for H-2A jobs and less than 1 percent actually finish those contracts.

So my whole comment to this is going back to the adverse effect wage rate, who are we trying to protect? If there's no American worker out there wanting these jobs, then who are we trying to make sure we don't adversely impact?

MR. PASTERNAK: Well, just bear in mind that the wage that we're trying to get at, which says whether or not the importation of the worker is going to adversely affect wages of similarly employed workers in the area, we're trying to get at, what are growers paying these workers now so that we can at least have that average guaranteed when the foreign workers are coming in.

Not that the people sitting around the area are going to apply for the job, but if they did, then they wouldn't be adversely affected. The labor market test is a different consideration. There's a lot of other things
that go into adverse effect, you know this, that
make the program inherently uniquely different
than any other visa program we have.

    We don't have other -- we don't have
Microsoft offering housing to Indian-based
programmers. Microsoft's not even doing a labor
market test in H-1B. Get an H-1B visa, you don't
have to do any labor market test. You can get
exemptions from it.

    That's a common misunderstanding of
the H-1B program. Only certain groups of H-1B
dependent companies do labor market tests that
even the statute gives exemptions to doing the
labor market test if you pay more than $60,000 a
year, or you're going to bring a foreign worker
that has a Master's Degree or higher.

    So you have lots of very high skilled
workers coming in to this country, through the H-
1B visa program as an example, and I'm not
badmouthing the H-1B visa program, I'm just
giving it as a point of reference, where you
think there's a lot of American workers that are
skilled and may be doing this work, they're coming in, there's still labor market tests going on. They're still advertising.

But in H-2A, it's the most intensive and expensive labor market test that's going on, both before, while you're with me, and then after I'm out of your hair. It's just, that's the reality, and some of it is all of this history that has been built up that led to the '86 law and the Congressional record that goes with it. It fits the program we're living with now.

So to Chalmers' point, you see the volume of the program growing. We're still having to work this in the law that was passed in '86. For God sakes, it was conceived of in the '70s and the early '80s, at a time when the domestic farm labor force was very different and American agriculture was very different.

Sorry. That's the answer --

CHAIR CARR: You're all right. You're all right.

MR. PASTERNAK: Sorry. Can you just
real quick? Real quickly, the AEWR is one thing. There are certain areas of the country that have to also consider these prevailing wage or prevailing piece rates. These wages come from our state Departments of Labor. Okay.

So we have some money that goes to the state Departments of Labor. They have the authority, the independent authority as a state entity, to go out and decide, you know what, we want to conduct a wage survey on apple harvesting, pear harvesting, cherries, whatever, different types of agriculture activities.

Florida has a bunch of them, that sort of thing. So we get those directly from our state Departments of Labor. There's a really old set of methodology around it, they're very different than USDA, these have nothing to do with USDA, but if they come into us and they're valid, and they're almost 99 percent piece rates, and they're valid, we post them.

So if a grower comes in with an order to me in Washington State and says, we're going
to doing Gala apple harvesting, our staff look at
the Washington site, and our site, but the
Washington to see if there's any new Washington
wage data out there on piece rates for apple
harvesting for Gala, because if there is, then a
growers going to have offer at least that piece
rate.

Now, the piece rates are out there.
Growers don't have to offer piece rates, but if
they want to, there may be a wage out there that
they have to deal with.

It's usually states like California,
Washington, New York, some of the big more
intensive ag states do give us some wages that we
have to consider.

So I just wanted to say as a matter of
point of reference, that's the other thing that
we deal with.

CHAIR CARR: And, Brian, if I can just
share with the group, because I know where you're
going on that, and just, so in Washington State,
they did publish, and they didn't just publish it
for Gala apples, they published it for about
several different varieties, including McIntosh,
so they have wage rates anywhere from $16.40 to
$23 on harvesting apples.

    Their AEWR is $15, so not only does
the employer have to pay that wage rate for
Galas, but if they go over to that block in the
afternoon and pick McIntosh, they got to pay a
different wage rate, all because the state
workforce agency published these piece rates this
year.

    MR. PASTERNAK: Yes. And I think we
got almost 60 different kinds of wage piece rates
for different kinds of harvesting activities by
crop, and in some cases, a lot of varieties of
that crop for that activity.

    And that's the tension in the program
is, should those piece rates be more market-
driven as opposed to being determined by a state
survey that is done at a one snapshot of a
particular part of the year?

    Okay. So we talked about wages.
That's the first step. You got to figure out what wage you're going to offer. And then as Chalmers mentioned, the second step is, you're filing a job with the state.

So in Washington's case, you're filing directly with the Washington Employment Security Department. If everything is good, they start the process of recruiting at that point. Now, that's happening about 60, 70 days before the start date, 75, 60, go ahead.

I'm going to leave this with you, but this is just a summary of the things that, if you're coming into this program, you have to be aware of, and things that the rule requires you to provide to these workers, and potentially, any domestic workers who are not local, the ones that can't get back home to their permanent residence.

I'll call them migrant farm domestic farm workers. Which again, as I mentioned, is getting lower and lower in this country. People are migrating a lot less.

Housing, workers comp, tools, meals,
meals aren't at no cost. Meals, you actually can charge some for meals. The transportation, subsistence to bring workers in and out of the country. A lot of these things, you go back to the history of this program since 50 years ago. In the '50s and the '40s, you'd see these guarantees. And 3/4 guarantee. You know, 3/4 of the work contract.

Okay. Let's skip this one. That's just general stuff. All right. You filed with the state, then you file with us, and this is all happening about, I don't know, we typically get applications 50 days before you need the workers to start work, but 45 days is sort of what, you know, generally, the law, you're supposed to be doing, and I don't require you to file earlier than that, but you can.

These are the basic documents that you send to me at the initial part of the application process, we have an electronic filing system, you can upload, scan documents, you don't have to email us a piece of paper.
We have absolutely excellent compliance around electronic filing in H-2A. Over 90 percent are filing electronically. We still get paper applications, which we have to data enter, it's very annoying, but we do have a very high compliance rate.

And the data of the mail-ins that we get, people give us email addresses, so we end up data entering it and communicating with them electronically. Go ahead.

All right. Statutorily, I have to issue an up or down decision on seven days. Seven days after I get the application. That's by law. All right. If it's a deficiency, we'll give you an idea of what to correct. If it's accepted, then we're going to issue an acceptance letter, authorize recruitment, you'll get some recruitment instructions, and then you'll be told of any other documents that we might need that can help issue the certification.

We also work with the state workforce agencies because many of them have to do the
housing; inspecting the housing.

This is the basics of doing what we call positive recruitment for American workers. The note that I will place here is that we do have a pending regulatory action that the department proposed to eliminate the continued use of print newspaper ads.

So that is sort of a pending regulatory action which is active and the administration is committed to finalizing that regulatory action, but I'm not -- I can't comment any more than that.

So currently, you come to me today, you do have to do print newspaper ads and some other things, but we do have a proposal out there that would propose to eliminate it and we'll see how that works.

And just so we're all clear, you file at day 45, I have 7 days to issue up or down, that takes you to about 38 days before you need the workers, and if I give you the up signal, under the law, I have to issue the decision, as
long as I've got everything in my hand, 30 days
before the start date.

And that's where some of the delays
may occur, because I might be waiting for a state
to give me a housing inspection report, the
workers comp document may not cover the period,
you may not have given me assurance you're going
to renew it, that sort of thing.

Those are issues that could cause us
to hold the application for a little bit longer
waiting for you or waiting for the state to
actually give us something.

And we have a proposal out there now
waiting for OMB approval to further expedite
moving from me to CIS, we have a proposal out
there to transform the issuance of our labor
certs to electronic decisions.

Currently, Chalmers knows this, we
print the certification on physical paper and
mail it to you, which you then have to use and
send to CIS, so we have a proposal out there
pretty actively, which we hope will be approved
in this month, that we will issue a one-page electronic certification that's emailed to the customer and they're able to print it out, attach it to their petition, and just move on to CIS very quickly.

For us, it's that whole issue of, how do we get people from one part of the system to the next, or one step to the next, as quickly as we can, knowing that now we're within 30 days where the workers got to come to the farm.

MS. HARPER-LARSEN: Before you go on, are you looking at an opportunity, instead of -- of course they need an email copy just for their records, but for your system to talk to their system?

MR. PASTERNAK: Yes. Yes, absolutely. We did a very innovative thing that we were hoping to replicate in these other visa programs. We had to implement a new visa program for the Commonwealth of Mariana Islands, which is out in the middle of the Pacific Ocean. And our regulation there for the first time ever, we
regulated that we would issue electronic certs
and transfer the electronic data to USCIS on
behalf of the customer.

So obviously, our goal here with H-2A
and for H-2B and others is that we will give you
an electronic copy of everything that you can
print out, and you'll need to keep one for your
compliance file. But the one page e-
certification, when you take it to CIS, if they
want to see the full certification, they come
into my system and grab the data. Yes. Yes.

We're there.

CHAIR CARR: But you also have to do
a biannual form to make sure your forms would
match up with data transfer, but you've done that
now, I believe.

MR. PASTERNAK: Well, we need to have
approval yet, but that is -- we've already done
it in CW and we're doing it on 2B, so I don't
have any concerns that we'll be able to do it in
A. Yes. But that's another way that the system
gets a little more efficient in talking from --
to itself about what the customer needs.

MS. HARPER-LARSEN: Well, you also

have a validated source from a regulatory body

from another regular --

(Simultaneous speaking.)

MR. PASTERNAK: Yes, yes. And that's

exactly right. Those are the conversations we've

had with CIS to the point where, two weeks ago,

they put out a public announcement on H-2B saying

that, going forward, the customer only has to

give USCIS, on H-2B, the one-page decertification

that we got approved by OMB.

And so now the paperwork has been

utterly eliminated between us and CIS for the

employer/customer, and we're really hoping that

they'll do exactly the same thing for H-2A, but

take from you that one-page de-cert. I think

that'll be a big help. Yes, sir?

MR. WINGARD: In my experience -- and

I want you to comment on it briefly. So for the

sake of round numbers, let's just use even

dollars. I was paying my harvesters $11, the
harvest manager $12 an hour, and the harvest supervisor $15 an hour to incentivize those guys to do a better job. I was told by our H-2A consultant, or whatever, that I couldn't pay above the H-2A rate.

MR. PASTERNAK: Now, the H-2A rate is just the wage floor.

MR. WINGARD: Well, we were --

MR. PASTERNAK: It's not the wage ceiling.

MR. WINGARD: Well, that's --

(Simultaneous speaking.)

MR. WINGARD: We were trying to incentivize --

MR. PASTERNAK: Sure.

MR. WINGARD: -- you know, efficient work. And it was advertised in our contracts, which should incentivize higher wages, but we were told we couldn't do that.

MR. PASTERNAK: I'm happy to send them to staff and some ideas saying, you know, you can put in even provisions for pay for the returning
ones, right? You're going to get some new ones and you're going to get some returning ones, you can actually offer better wages to the returning ones from the new ones that may be coming in.

You just have to be transparent about it, and you have to treat everybody equally so that American worker has that kind of experience that you're working for or that it actually was the person that is returning, you got to make sure that they're being offered exactly that same benefit as the H-2A worker.

MR. WINGARD: Charles, what you're -- and I don't know who your person is, but you can put supervised men there, but if you didn't disclose the wage rate of $12 an hour for that line worker and $13 for that, if the USG comes in and audits you --

MR. PASTERNAK: Yes.

MR. WINGARD: -- and finds that you're paying those workers that, then they're going to fine you because you didn't advertise that to the American worker who could've had a choice between
the job --

MR. PASTERNAK: Yes, yes.

MR. WINGARD: -- because they're all about protecting the American worker.

MR. PASTERNAK: You're talking about Mike?

CHAIR CARR: No. He's using -- well --

(Simultaneous speaking.)

MR. PASTERNAK: Oh, I'm sorry --

(Simultaneous speaking.)

CHAIR CARR: But that's what's happening with your enforcement side.

MR. PASTERNAK: Yes. That's exactly right. Yes. The southeast enforcement guys would probably look at it that way.

(Simultaneous speaking.)

CHAIR CARR: -- completely different than the previous administration it's always what people want to look at.

MR. HUGHES: So because we're four minutes or three minutes, now, out from the
break, I want to see if there were any lingering
questions for the other deal experts because we
do have our next speaker, the Administrator of
Rural Development, that has arrived, and so I
want to make sure we break on time and start on
time so that we don't take up -- or, eat into
that presentation from the Administrator.

CHAIR CARR: I guess to be brief,
because there may be questions -- Brian, will you
be around --

(Simultaneous speaking.)

MR. PASTERNAK: I can hang around.

CHAIR CARR: Yes. People can swap
back and ask you or during break --

(Simultaneous speaking.)

MR. PASTERNAK: Yes. That's fine.

Yes.

MS. HARPER-LARSEN: Can we just make
sure that we get contact information for each of
the --

MR. PASTERNAK: Yes. Yes. I'll have

that.
MR. HUGHES: Send a picture so we know who is who now.

(Laughter.)

MR. PASTERNAK: I'll probably --

MR. HUGHES: Let me grab my government phone here.

CHAIR CARR: Is there anybody from BLS that hasn't spoke that's here?

MR. HUGHES: There are, like, three people. They brought their whole department with them.

CHAIR CARR: Well, they introduced themselves --

(Simultaneous speaking.)

MR. HUGHES: Yes. They introduced themselves earlier, and the one person that wasn't here, he spoke the most out of all three, so you've heard from --

(Simultaneous speaking.)

CHAIR CARR: But if I understand you right, we cannot ask questions about the BLS data that you're proposing to use in the new rule
based on these new wage classifications. Is that correct?

MR. PASTERNAK: I would advise that you -- we not do that here without, you know -- getting into a conversation about it would not be a good idea.

MR. HUGHES: Yes

MR. PASTERNAK: Yes.

CHAIR CARR: Thank you for all you've given us here today and --

(Simultaneous speaking.)

MR. PASTERNAK: Sure. Absolutely. If there's any follow-up question, run them through staff, and I'll be happy to answer them and give you more information about them.

CHAIR CARR: All right. Thank you, Brian.

MR. PASTERNAK: Thank you.

CHAIR CARR: So we're going to take a break for 15 minutes. Be back at 3:30, staying on schedule.

(Whereupon, the above-entitled matter
went off the record at 3:13 p.m. and resumed at 3:31 p.m.)

MS. HARPER-LARSEN: All right, everybody. If you could go ahead and take your seats. I'm going to turn the meeting over to Darrell and we're going to have an overview of the Farm Labor Housing Direct Loans & Grants Program from the Administrator, Bruce Lammers.

MR. HUGHES: So I'll just invite Bruce Lammers up to the podium. And just for clarification of the record, Bruce Lammers is the Administrator of Rural Development.

MR. LAMMERS: Rural Housing.

MR. HUGHES: Rural Housing?

MR. LAMMERS: Rural Housing Service,

MR. HUGHES: Oh, Rural Housing Service. That's under RD. All right. There we go. Yes.

MR. LAMMERS: Would you like to invite somebody else?

MR. HUGHES: Sure. No, no. Go ahead and take over. Go to the next slide, just let me
know, and I'll go ahead and --

MR. LAMMERS: I've got some highlights here, so you can follow me this way, if you don't mind. Good afternoon.

All right. So everybody's here and it's not -- we're not between cocktails -- or, lunch and cocktails yet, but pretty -- closer to cocktails than we are to lunch.

As was said, I'm the Administrator of the Rural Housing Program. Rural Housing includes multifamily housing, single family housing in rural America as well as community facilities. So we like to -- I like to see it as a large bank. And I came from banking. I had a career of quite a few years of -- in banking, and I bought a small bank in '06 that sold in 2016, and made it through the recession; the Great Recession. And was able to sell the institution. I worked for my -- the people that acquired me, and decided that this is something that I wanted to do to give back to the industry.

So I'm a political appointee that has
banking experience, and we like to think -- or, we believe that this is a large bank that we're running. We make loans and grants, but that's a little bit of background. I grew up in a small town in Wisconsin, so I understand a little bit about agricultural production. Very little. What I understand is that I went to school with kids that came home -- came to school in the morning and smelled like they'd been in the barn, working.

Then I also got the opportunity to bale hay, and lived in a community where we had a packing plant that packed vegetables. And I was just saying to one of my folks that's here from the agency, I said, when I was a kid, I lived near the canning factory and there were all these people that were really migrants, and they came in, and there was housing there, so we had farm labor housing. So all of a sudden I'm trying to -- from 40, 50 years ago, I'm connecting the dots, so I see that. So if you have any questions or any
suggestions as we go, I've got an associate, C.B. Alonso, who's with me, and he's the one that's either going to take the tough questions or write down your suggestions if you have them.

So I don't know what you know about Farm Labor Housing, but we provide financing for on-farm and off-farm housing for year-round and seasonal labor. If it's off-farm, means it's not collocated with the farm. If it's on-farm, it tends to be located with the farm.

Borrowers may apply. If they're not able to obtain commercial credit at a rate that's acceptable to provide lower-income tenants competitive rent, borrowers have to have experience managing similar housing properties, or control the deductibility. Borrowers include farmers associations, farm workers and nonprofits, state and local government entities, as well as federally recognized tribes.

Funds that are available, given the current yield curve, we still have a positive interest rate. But given the yield curve the way
it is right now in the capital markets, it may
not look like as much of a deal, but we've got
low interest rates. We also issue grants that
are up to 90 percent of the project cost.

    Payback is 33 years, 1 percent
interest rate fixed for the life of the loan,
which is still competitive with traditional
financing, although it's getting there. The off-
farm labor housing is available through --
annually through a Notice of Solicitation
Application. That occurs annually and it's
published in the federal register. The
government lingo is we file a NOSA and that's
when people know that they can apply.

    On-farm labor housing is a year-round
opportunity for credit. Preference is given to
applications of off-farm that leverage other
sources of funding. So those projects -- and
I'll give you some -- a little bit of data in a
little bit -- little while, but the off-farm tend
to be larger projects. The on-farm tend to be
really two to four units, maybe even one unit
that are housing on the farm.

Our program is generally appropriated $30 to $40 million a year for the program. And again, the loans are generally a 75 percent loan and 25 percent grant for not-for-profits. Off-farm, again, the limit for the award is $3 million, which could be all loan or a grant combination. And as I said before, the off-farm -- or, on-farm is smaller units. So the -- basically, the funds are used for construction or improvement or repair of housing for domestic farm laborers.

So the irony -- or, the difference in the Farm Labor Housing Section 514 Program is that it's not -- the larger projects of off-farm labor aren't limited by the population density of the MSMA of the area that you're applying in. So generally you'd not be eligible if you're 35,000 people or above on a normal USDA housing.

I think it's 35, right? The 35 population requirement is generally for multifamily, and for farm it's not a requirement,
so you could actually -- as long as you're serving farm labor or retired farm labor, it can be a -- more of an urban area, although likely rural in character.

So the people that can occupy are laborers and -- including fish and oyster farms as well as on-farm processing plants like packing plants for pea farms. And then retired or disabled farm laborers, you must be a U.S. citizen, permanent resident or a H-2A visa holder. And it's generally for the low-to-moderate income households.

So for off-farm, the borrower must be a nonprofit. And for on-farm, the borrower must be a family farmer or family-owned operation. In the on-farm, the borrower is not to generate a profit from this, but to provide reasonably priced rental housing. And again, for off-farm, it's going to be nonprofits that generally operate these.

So it could be a farm group could get together, put together a nonprofit in their
community to be able to finance the housing for them. And the goal isn't for the group to make money. It's to build a nest egg to provide maintenance for the properties and reasonable housing for the tenants.

There's an application process, and, again, the off-farm is an annual appropriation, the -- or, on-farm is -- you can apply year-round. We offer no-cost assistance to the application process and we do technical assistance.

At this point, I'm going to give you a couple -- given the fact that I came from banking, I like numbers. The projects that we have in our portfolio right now, off-farm are 310 projects, on-farm 214. But live-in units, or total units, 16,467, or an average of 53 units in each loan for the off-farm. And you can see the on-farm are -- average units are two with 432 properties that we've financed. So really is -- off-farm tends to take the day.

Being from Wisconsin, it's -- I want
to point out that we have six on-farm properties and three off-farm properties that have been financed for a total of 69 properties. But the leader in the nation is California, followed by Arkansas, and Florida next. And again, you can kind of see the big push, or the big benefit, is that the nonprofits that access the off-farm labor housing.

And that's kind of our portfolio in a nutshell. Got suggestions, desirments or questions, I'd be happy to handle them. And I'll turn to C.B. once you ask a question because I only -- having been here for two and a half months, I've learned a lot, but there's a lot of knowledge that I haven't gained and I probably won't.

CHAIR CARR: Is a unit a bed?

MR. LAMMERS: It's a rental unit.

CHAIR CARR: How many -- okay. Is it -- sometimes we talk about beds and units?

MR. LAMMERS: Yes. These are apartments.
MR. BROWN: And how many people can stay in a unit?

MR. LAMMERS: I'm going to turn to --

MR. ALONSO: A unit can be both. An actual live-in unit can be multi-room or a bed depending on the type of housing that you build.

MR. BROWN: And what are the number of beds in a room?

MR. ALONSO: There are specifications in our regulations on what you can build and what you cannot build. Our regulation is called -- the development regulation, it's 1924(a) and that's got all the stipulations of building -- for building farm labor housing in there. It's a good regulation for architects.

MR. LAMMERS: But what was off-farm, are apartment-type units that are -- families are living there.

MR. BROWN: Okay.

CHAIR CARR: So for clarity, and I had asked for this speaker to be here.

MR. ALONSO: Thank you.
CHAIR CARR: So I think we're going to see a lot of activity in your apartment because of the simple fact up until 18 months ago, H-2A workers were not allowed to use 514 housing. So it got put in through Congress that now H-2A workers are able to use 514 housing. And as we all know, housing is the second biggest barrier to entering the H-2A program.

So there's a lot of industries that never had to supply housing or there's areas in the country where you can't build. Florida's in a major housing deficit right now. So there's a model for nonprofits that could be -- it could be a nonprofit, but it could be a revenue generator. For farmers, people you all represent, this is going to become a major source for doing -- as we just talked about earlier with Brian being here, the growth in H-2A is exponential, but you still have to have housing. And so having farmers having access to build housing where you can get low-interest loans and do this outside of your farm operating funds and stuff, there's going to
be a lot of demand on this.

And I really advise anybody that you all are targeting to look at it because that's -- because it's relatively been an unused or an unknown about program because, again, most of the labor growth has been in the H-2A program and they weren't accessible to these funds.

(Simultaneous speaking.)

MR. LAMMERS: So if you can find a nonprofit, like a housing authority, and partner with them, it's a prefect avenue for you not to have to build or manage the housing, but to be able to sponsor the desire to get it.

MS. HARPER-LARSEN: I'm currently curious about the monies that are available for refurbishing because we have a large amount of, what we call, older camps that are not currently being used that could and are already permitted to a point, but could be refurbished, expanded upon, facilities added to make this 1924(a) requirement. Can you explain if there are any differentials for funding for remodeling versus
new builds?

MR. LAMMERS: You can use the funds to be able to remodel or maintain or improve the property, yes.

MS. HARPER-LARSEN: Are there --

MR. LAMMERS: Any deeper and I'm going to have C.B. answer the question.

MS. HARPER-LARSEN: This is going to be deeper because we've got farmers --

(Simultaneous speaking.)

MR. LAMMERS: Get ready, C.B.

MR. ALONSO: All right.

MS. HARPER-LARSEN: All right. Do you give a funding bonus --

MR. ALONSO: No.

MS. HARPER-LARSEN: -- differential, whatever you want to call it, for a farmer versus a random nonprofit?

MR. ALONSO: Well --

MS. HARPER-LARSEN: Okay. We'll expect that that will come from one of our committees.
MR. LAMMERS: I would say that, no, but the nonprofit is probably where the -- for the $3 million limit, that's where you're going to find the opportunity. I mean, on-farm housing is sort of a one, two, three, four. And if you want any volume like you're talking about, you're going to need to team up with a nonprofit to be able to get it done.

CHAIR CARR: I would disagree with that statement.

MS. HARPER-LARSEN: I would too.

CHAIR CARR: I mean, we've built 150 beds, which has been five units in the last five years. So, I mean, as far as the H-2A program, you're going to be looking at farmers that are going to put in 30 to 60 beds, and these will be units for people to room and built to the codes and everything like that.

MR. LAMMERS: But they can't be for profit.

CHAIR CARR: No. Not for profit, no.

No.
MR. LAMMERS: Okay. That's --

CHAIR CARR: In fact, a lot of this farm -- if you're in the H-2A program, you have to provide it for free.

MS. HARPER-LARSEN: Yes.

CHAIR CARR: That's the challenge. So like I said, a lot of -- question would be, in the last five years, have you always used your annual allotment of money, or has there been money left over every year?

MR. ALONSO: We've used it

CHAIR CARR: You've used it? So you have enough applications to -- in the past to use all that monies?

MR. ALONSO: Yes, sir. Like the administrator said, it's between $30 and $40 million and we get applications through the nation. However, California is the most prolific one, and that's for, typically, new on-farm labor. The NOSA allows acquisition of none RD projects for rehab, okay? You own an RD project you want it rehabbed, then you come through an
internal process.

CHAIR CARR: And I think I kind of asked that question. Is there a difference between -- is there a preference over the farmer, which is what USDA is supposed to be servicing versus the -- a nonprofit. So when you go into that application process, are we weighted equally? And then what is the -- what's then deciding who gets to go and who doesn't get to go? Is it the amount of money I'm requesting? If I'm already requesting 40 percent cost share versus 75 cost share?

MR. ALONSO: Let me answer it this way. I'm going to say off-farm versus on-farm. Formally, the on-farm will be the farmer versus the off-farm will be the nonprofit. They're two different processes. Our focus has been on a farm so that the preponderance of the funds that we get we put into a farm housing; however, we are funding every application that comes through for on-farm housing.

Now, if you guys decide to increase
the volume of applications coming in, then we may
get, you know -- that in the future, we'll need
to reallocate. But right now, we're satisfying
that demand from both sides, on-farm and off-

farm.

So for the group to understand that,
you already mentioned California. There's
several farmer labor contractors, but there's
pretty big ones out there that are using off-site
because they got to provide housing, too. And
they're using these funds to build in areas of
California where you can build still within
driving distance of where they're servicing
farmers, and so that's where -- so not
necessarily nonprofit because they're finding
somebody else to build it.

But that's what they're building it
for so that farm labor contractor can have
housing to put his H-2A workers there to farm.
But farmers are going to have that same
challenge, so I just want everybody to understand
that. But that's where the -- we talk about the
growth of farm member contractors and they've already figured out this pool of money's there too.

And farmers catch on really quick as well; otherwise, you know, we're all going to be guys that -- but you're looking at a paradigm change as you have this transition to the H-2A program -- or, my believe you'll have to, is then now you got to provide housing. If you didn't provide housing, you better start figuring out how you're going to build it. And it's not cheap. It's $5,000 to $10,000 a day. And cheap as you can go is $5,000 and most of the time it's going to be 8 to 10. So if you got to fill that many beds, you know what the cost is.

MR. WINGARD: Suppose I have an opportunity as a farmer to buy a small apartment complex and it's in need of some repair. Not a lot. Maybe a roof and, you know, some other odd and end stuff. Would that qualify?

MR. ALONSO: Yes.

MR. WINGARD: Thank you.
MR. ALONSO: Let me expand on that.

MR. ALONSO: I would say, yes, of course. However, it all depends on how you're going to set up the ownership. If it's going to be housing for your farm only --

MR. WINGARD: Yes.

MR. ALONSO: -- then we have to go through the on-farm and there are some limitations as to whether it come from your ability to find similar -- well, conventional plans externally. See, what we're trying to target here are folks that cannot obtain this -- reasonable financing to provide housing for their workers.

If we look at your financial statement and we say, well, you know, you have ample ability to get financing elsewhere, you may not qualify.

MR. BROWN: Is on-farm physically -- let's say you have local farm sites. Does it
have to be on one of those farm sites or can on-farm be a separate piece of property as long as the workers are working just for you on that property?

MR. ALONSO: Exactly. As long as the worker that resides on that project works for you, your on-farm project can be anywhere.

MR. BROWN: Okay.

CHAIR CARR: You had a question?

MR. ZEA: Yes. Just curious because your admission that it's coming in -- later contractors are already onto it. Have you seen any evidence of pushback from local communities, particularly with planning agencies and permitting and all of that? I would think California you would've seen it --

(Simultaneous speaking.)

MR. LAMMERS: I don't -- I'm going to say, I don't think so. But the -- I think the NOSA closes -- I mean, the applications are going to close the end of this September, so there may be projects out there that hadn't gotten the
community's ire yet.

MR. ZEA: Right.

MR. LAMMERS: That's a reasonable thing, but I --

CHAIR CARR: That was my -- part of my question was, because farm labor contractors are working in multiple farms and stuff, there's rules about how far away they can be from the farm, but they're able to pick their sites where there may not be the right -- they may be able to do it in a part of the county that doesn't have it. But where if you're a farmer and you're in that county and you want to have that housing as close to you as you want, you may be -- by county ordinance, you may not be able to build. And I think, you know, the person will. So that's just kind of, like, the landscape that people understand.

MS. HARPER-LARSEN: Quick question, maybe for the both of you. Are we putting farmers at a -- being at a disadvantage here if we have a good year versus five previous bad
years, and you have a farm labor contractor who keeps reporting he didn't make any money?

MR. LAMMERS: Most farmers can't make any money anyhow, right? Every year's a tough year, even if you make money. But I will tell you, where Congress is right now is that if we're using -- and this goes from my experience in SBA lending to discussions at USDA. If you're providing favorable financing for people that can get financing elsewhere, we shouldn't be doing that.

And the SBA's gone through making all sorts of rules that banks have to certify that the borrower wouldn't get the money elsewhere if they weren't -- if they -- that they weren't qualified to get it elsewhere. So you got to be the lender of last resort and a prudent lender at the same time under the SBA program. So there is not as much noise on that in the USDA program, but it's a consideration that, if you can go to your bank and get reasonable money or, you know, you can find other sources of financing, by all
means, it's going to be hard -- once we get -- as
you say, if the avalanche is coming here. If
there's competition for the money, it's going to
end up being looked at even harder above what
we're using the money for.

(Simultaneous speaking.)

CHAIR CARR: And the farm labor
contractors aren't going out and getting these
loans. They're partnering with a nonprofit.
They're going to then have a different set of
standards to prove financial eligibility --

MR. LAMMERS: Much cleaner.

(Simultaneous speaking.)

CHAIR CARR: Much cleaner.

MR. LAMMERS: Much cleaner is what,
you know -- and there's all sort of
considerations. Are we competing with the
private sector and the money that we're giving
out as well? You know, we're here to help the
tenants as much as we are to help the farmers,
so.

MR. TALBOTT: We had worked with Child
& Migrant services put in a lot of this housing over the last 20, 25 years. And all we were -- it was a nonprofit that put on-farm housing in a rental agreement with the farmer, and that system worked pretty well. We tried to go to centralized housing and there was too much community kickback. Like, we don't want centralized migrant housing, so you will run into it --

(Simultaneous speaking.)

MR. LAMMERS: And you don't want to build housing projects tomorrow.

MR. TALBOTT: Right.

MR. LAMMERS: And that's the concern that you're going to see. Yes. And I'm coming from that as a -- from a practical, private industry standard rather than administrator of the USDA. Thank you for your time and interest, and I think I've got C.B.'s name in the attachment that's in here. Feel free to take a look. Thank you.

CHAIR CARR: So the group -- where's
he at? I'm just going to make a comment and say they handcuffed us by not letting us talk about the proposed rule that's out and, you know, as released. But in that proposed rule, if you notice -- if you understand the growth in the H2-A and there's a housing shortage, a lot of people have used public housing, meaning hotels or apartments, to put H-2A workers in.

And the rule currently says, if it's not on-site farming housing, then it must meet state or local standards. So a hotel room has two queen beds in it, you put four people in it. But that same hotel room doesn't have enough window square footage to the floor square footage to justify four people. Under the proposed rule, they're going to make all public housing has to meet federal standards.

So if you've been using a farm labor contractor or you, yourself, has been using a hotel, and by state and local standards you can put four people in there, there's a very good chance that next year -- if this rule ever gets
passed and gets adopted, you would lose that or
reduce your ability to only put two people in
there because you have to meet federal standards,
right? It's going to be a huge change for all
the growth that's happened.

You saw that growth. And a lot of
that growth was, as we determined, farm labor
contractors who have been using public housing.
And farm labor contractors maybe actually put six
people in this room instead of four. But now,
you, as a joint, employer, you would be subject
to those same rules. So, again, I think this
whole housing thing is only going to get worse,
and that's why I wanted you all to hear about it.

MR. HUGHES: So inside of the briefing
book, there is web printout of housing program
101 that just talks about a lot of some of the
stuff that's on the PowerPoint, but in more
detail. And some other, just, additional
information about, like, where they're coming in
from, so.

MS. HARPER-LARSEN: And I just shared
with Darrell -- and felt that that was a very important thing because I was already drafting an email back there saying, where's all this at so that we can share it? So we're almost to the end of the day, okay? Food safety has been wanting to get to know each other and also get to know quite a few people from the USDA and the FDA.

And I would remiss if I didn't thank the members of our subcommittee, in particular, Molly Gleason, for stepping in a couple of times when I was driving down the road and she was taking active notes, and also Leanne Skeleton, for being present and offering to collaborate amongst the different associations and agencies to really come together for things to help us.

You guys will see that we have an objective statement that's pretty broad. And what I want to point out to you is that we see the role of the American producer, packer, and processor brands that we have a responsibility for the safety and security in our great nation. And we wholeheartedly support holding foreign
producers, packers, processors, and their importers immediately accountable to all Food Safety Modernization Act requirements.

Moving onto the next slide, you'll see that we have recommendation subjects. These are drafted a little bit differently than what many of your other subcommittee have had. And the reason for that is, our subcommittee is focused on, primarily, collaborating with the FDA in its capacity and then also the CDC in its capacity. So we're looking to make recommendations for more effort.

We encourage the FDA to continue to work with growers to develop science-based water, microbiological testing standards in a timely manner, so we're going to have Dr. Jennifer McEntire from United Fresh join us after my comments to explain to many of you the technical requirements that we're currently facing and what the climate is there.

We wish to protect producers and packers from undue economic burden related to Neal R. Gross and Co., Inc.

(202) 234-4433
Washington DC
www.nealrgross.com
increased microbiological testing requirements.
Within that capacity, we want increased funding
for on-farm water sampling. We want more
research projects, financial assistance for small
and very small operations that have to comply as
well, and the development of an online produce
safety rule grower training available in English
and Spanish.

For many of you who have not had the
opportunity to sit in a chair for seven full
hours and go through a certification program
unlike any other that has been developed, it's
not currently available online and it's not
available in Spanish for anyone who has employees
in Spanish that are involved in your process.

We encourage the re-evaluation of ag
water testing requirements annually; so that will
be important as Jennifer addresses things. And
we also are looking to potentially establish a
grower stakeholder advisory group in relation to
the Produce Safety Rule and Preventive Controls
for Human Food. The important thing to
understand there is that Preventive Controls for Human Food extends well beyond fruit and vegetables. It extends to all other human foods that are not currently regulated, okay?

Moving onto the next slide, we encourage development of FSMA Procure Safety Rule, Preventive Controls for Human Foods, and Foreign Supplier Verification Program interactive decision trees to assist entities in determining which rules they must comply with and when. If you guys will remember the dialogue that we had of, well, it's currently under enforcement discretion. I don't know how comfortable you guys feel about that. Wouldn't it be nice to have something that was more definitive and a resource to have in your file?

We encourage FSMA Foreign Supplier Verification Program modules focused on helping distributors, wholesalers, and cross-stocking facilities, and aggregation facilities to fully comply. We're not going to keep the safety of our American public at a priority if we don't
help these folks comply.

You guys have also remembered that we spent quite a bit of time hearing from Ken Petersen from the USDA Auditing Office and he spoke with us about the USDA GAP Plus+ Program. We invited him to speak with us on one of our additional calls, and based on that additional call, we decided to include more support for funding and personnel, marketing, and education outreach so that we can have the USDA GAP Plus+ Audit Program, which is GFSI technically equivalent and FSMA recognized, to be more readily available.

Let me give you an instance right now. Currently, Wal-Mart will not permit, unless it's its own discretion, anyone who sells more than $2 million annually of any produce item the ability to be USDA GAP Plus+ audited. Why? Well, it says, in quote, it's not a GFSI benchmarked audit, end quote.

And what did we learn from Ken Peterson? USDA cannot be GFSI benchmarked
because they are not funded multi-year. So let's help them get more traction and we will help ourselves have a cheaper audit process that meets our standards. We encourage the FDA to perform more sampling, inspection, and documentation review of foreign grown, packed, and processed fruits and vegetables.

Moving onto the last slide, we encourage the FDA to perform more targeted Foreign Supplier Verification Program inspections on produce items that have caused outbreaks in the United States. Currently, according to FDA, unless we're dealing with an active outbreak or recall, they have to have the produce inside the United States before they can to an inspection.

The last two are incredibly important to several members of our committee. We encourage the USDA to work with the FDA and the CDC to hold town hall-style meetings to improve understanding of growing, harvesting, packing, and traceability processes prior to issuing additional fruit and vegetable consumer
advisories.

As you guys will well know, we had much discussion at our last meeting about the millions of dollars and potential, at least, terminal market disruption, and sometimes we have seen long-term market disruption for entire commodities, which have detrimentally affected the American farmer.

We encourage the USDA to work with FDA and CDC to develop a fresh fruit and vegetable regional food safety technical expert and regional growth stakeholder advisory committee focused on improving and advising during the consumer advisory process. As we have seen from the previous consumer advisories that have been issues, we have had days, weeks, and sometimes months where we didn't have critical information that all of us could've shared in five minutes because we know the practices and we can offer that advise. So I submit these for your review and we're going to review them in our work brief.

MR. HUGHES: Perfect timing. You can
introduce yourself. This Jennifer from United Fresh, but I'm sure she'll tell you all about herself and what she does.

MS. MCENTIRE: Hi. Good afternoon, everyone. I'm Jennifer McEntire with United Fresh Produce Association. I am the VP of Food Safety at United Fresh. I've been with United for about three years. By way of background, I am a food microbiologist. By background, I've always worked in the D.C. area for almost 20 years for science societies, trade associations, always working in the food safety states. And United, obviously, are focused on fresh produce.

So I was asked to come here and talk a little bit about water specifically. But I'll say based on Kiley's comments and the recommendations she just shared, I'm happy to tackle really any subject. It's pretty fun for me to talk about food safety regulations. This is my forward button? No? You got it.

(Simultaneous speaking.)

MS. MCENTIRE: All right. So a few
key points that I want to lead off with. The first is, there's no -- I think there's no dispute that water needs to be appropriate for its use when we're talking about the produce of fresh produce, whether we're talking about irrigation water, frost protection, through packing, processing, even washing your hands, it's clear that water needs to be of adequate quality.

The regulatory requirements are on pause, so this is a part of the Produce Safety Rule, and I'll go into that a little bit more what the current requirements on the books are, and the reasons, in my opinion, why they're appropriately on pause right now and why they do need to be reconsidered.

From my perspective in working with our membership, I see -- I've observed a shift in mindset around how do we manage water. And I know Kiley mentioned in a couple of her bullets around testing of water. Well, maybe we just need to take a step back and re-evaluate if
testing is even the answer. So this was started -- I would say an initial conversation within the Leafy Greens industry, especially in California and Arizona, based on a couple of outbreaks that clearly had something to do with water. When you find that exact packaging in the water, you can't just ignore that.

So we've seen movement within California, specifically through the California Leafy Greens Marketing Association, a way that they're taking a different approach to water. And the rest of our membership are looking at other commodities. They're paying attention and wondering, how is this going to impact them knowing that buyers hear that California romaine producers are doing one thing. Is everyone going to expect that now apples and citrus and other commodities should also follow suit.

And in some ways, I think maybe some aspects are appropriate. Others are not. And so I think as we talk to FDA, as we think about what should be a regulatory requirement, we need to be
pretty cautious in our evaluation of what's going on and the scientific support for these actions.

So what's in the rule right now? So I pulled down just a little snippet. The obvious one that all ag water must be safe and it's adequate sanitary quality for its intended use. But what does that mean and how do you verify that? How do you prove that? Especially, when we're considering that it's not just production of fresh produce here in the United States, but the production of fresh produce in other parts of the world that's going to be important. So how can we make sure that it's clear what this means? And that's where this rub.

So within the rule right now, there are very, I'd say, pretty detailed requirements. Very specific requirements around the microbial limits for generic E. coli that's used as a core indicator organism. So it gets pretty complicated. There's this microbial water quality profile that's four years' worth of data that kind of keeps on building upon itself.
There's a geometric mean and a number established there of 126. Where'd you come up with -- that seems awfully specific; 126. And then a statistical threshold value recognizing that there's going to be some flux from time to time.

There's also something called a die-off provision that if your water doesn't meet these microbial limits that there is kind of an option to us time as a factor, up to a few days, to get where -- assumed that those limits are going to go down just to due to natural die-off.

That is on the pre-harvest side, when we're talking about water that's going to be used during harvest and then following harvest for washing produce, processing. That water needs to have a different level where there's no E. colis detected, so cleaner level, basically.

So the challenge is with the rule as written, really, one is around math, so how do we get this geometric mean and how do we find this statistical threshold value. And there are little calculators that a couple of academics
have developed to help people input their test numbers and make sure that they're within the range.

There's also the logistics, so you have to do this testing for each water source. Well, what does that mean? And what -- you're using a water source that somebody else is also using, do you both have to test it? And what if you get different numbers? So, you know, there's some logistical challenges. Initially, when the rule was put out, the method was pretty prescripted. We were successful in working with FDA to allow some additional methods, additional options to develop these numbers.

But to me, as a microbiologist, the question really needs to be, is this even the right standard. So even if growers could do these tests, understood what one water source meant, had the math down, had the method down, are we even asking the right question here? Is this the right standard?

I'm not convinced that it is because
we know that generic E. coli is not a very good indicator. We also know that in the Yuma growing region that, when the canal water was tested, that water met the FDA requirements with -- passed with flying colors. And yet, the outbreak strain was found there.

So FDA recognizes this, too. I think they've been beat up a good bit over ag water. And that's -- these are the reasons why this part of the rule, Subpart E, is now on pause. So FDA needs time to compile and interpret the science. I would suggest that we can keep developing the science. I'm not sure that we'll get any closer to a single answer that works for all commodities in all growing regions and considers all different types of growing operations and all different types of water uses.

Again, this part of the rule is pretty prescriptive and I wouldn't be surprised if rule making is required. But rule making takes a lot of time and we're already kind of behind. And I feel like I'm feeling the criticism when the
press calls me and says, oh, there's yet another outbreak and yet again we can point to water. So why is the industry pushing back on this part of the rule? And it becomes difficult to explain, so I think we'd all like to see -- I know I would like to see this part of the rule finalized, but in a way that makes good sense and is appropriate.

So the Produce Safety Alliance, with support from the FDA, about a year and a half ago convened a water summit. It was quite an experience with a lot of people there in Cincinnati, as well as online at different satellite locations. So it was very robust discussion where many of these issues were brought to light, went into some detail.

I don't know that -- again, that anybody had, like, some solution that would work in all circumstances. So it was a great start to the conversation. If you're interested, there is a link there that you can read the full report.

So now fast forward a little bit to
this outbreak in Yuma, Arizona, and the filing of that shiga toxin-producing E. coli in the canal water, and the leafy greens industry then, you know, just a few months later around Thanksgiving, sort of a similar thing happened in California where the outbreak -- that outbreak strain, a different one, was found in sediment of a reservoir -- a water reservoir.

So what to do? And the leafy greens industry maybe, in some ways, threw in the white towel a little bit and said, we just have to assume that surface water is contaminated. Maybe testing is not the answer. Maybe we can't test our way to safety. Maybe we just need to flip it and recognize that there are some types of water sources that are inherently riskier. Other types of water sources that aren't, but the other factors come into play. So it's not just the source, but how is that water going to be stored, how is that water going to be conveyed, and then what, ultimately, is the use of that water.

So if we're talking about overhead
irrigation, that's very different from drip irrigation. And then furrow irrigation is arguably maybe a little somewhere in between. But is the water touching the crop? Is the crop getting saturated with this water? Is water contact incidental? These are all factors that should be considered.

So the California LGMA has now finalized their water metric. If you're not familiar with the California LGMA, I'm happy to explain that structure, but it is organized under the State of California. It's voluntary, but it's not that voluntary if you want to have a market share.

So within California, this is now the law of the land for production in California. And the question has been, well, is Arizona going to follow suit now that Arizona has a leafy greens marketing agreement, too? But they're use of water and their sources of water a little bit different, so they're still working on that. And then the rest of the industry has said, well, is
this now going to be imposed upon us? And should it be imposed upon us?

United Fresh's secretary for the harmonized standard -- the harmonized standard is the standard that the USDA HGAP Plus+ is built off of -- and there is a water requirement within the harmonized as there are water requirements in most GAP audits. And we learned from our -- the other organizations that we've worked with that understanding how to assess the risk of ag water was the most challenging part, or the part that had the most variation and interpretation amongst growers.

So independently and prior to these big outbreaks, we had started down the path of trying to put some guidance together for growers on, what does it mean to assess the risk of your agricultural water? And really we came up with basically the same thing that the California LGMA had come up with.

Although we recognize that different crops are different, some are stored after
harvest. There maybe be some die-off there, the
use of water is a little bit different, but we
took this similar risk-based approach in
determining what quality of water is appropriate
for its intended use. And there's a detailed
hazard mitigation table that accompanies that.

Currently, the Center for Produce
Safety, which is a -- which funds produce safety
research, is actively soliciting research
proposals from five different regions of the
United States and within each region requiring
that there be five sites per region that would
also evaluate water issues, especially around
water treatment.

So if we're going to be treating
water, how can we do it in a way that is
effective, that is validated, that is -- that
recognizes the environmental impact that one may
have. You know, we don't want to have unintended
consequences here in haphazardly treating water.
And how does it apply to more than just leafy
greens? So that work is -- hopefully, will be
starting soon. The proposals are still out being requested.

So in terms of what we need, I think we do need more science, but we can't wait for the science. We need to communicate what we already know. So, you know, people have been collecting data. Individual growers have their water quality tests, have their data, and so this needs to be part of the discussion too, coming forward and sharing that information with the agencies as FDA is considering how to adapt the rule.

We'll continue to collaborate. We've got a review coming up in just a couple of weeks where, within our food safety group, we'll be talking about, if FDA came to United today and said, well, what do you think we should put in the rule? We want to have an answer, and so we're working on that, again, following a risk-based, science-based approach, recognizing the science is incomplete, but will probably always be incomplete.
So as members ask -- as growers ask, well, what should I do now given that the rule is on pause, it's do what you've been doing and do the right thing. So test your water, make sure that the water is appropriate for use if you're not treating that water, but go ahead and don't just do nothing.

So I'll stop there. I'm happy to take any questions on either the water topic or, really, I feel pretty comfortable talking about anything that Kiley mentioned as well.

MR. BROWN: Going back to Kiley's comment, this is a critical issue, getting major retailers to accept the USDA GAP Plus+. I mean, right now, especially this year where we had a horrible transition from Georgia to Michigan, you know, these smaller growers, the under the 2 million in sales growers, they're not incentivized to get GFSI, so we can't buy from them as a larger grower/shipper/packer.

You know, from the large retailers, we can get an exception, but then they want you to
get paperwork and a commitment from the smaller
growers that they're going to go up to the next
level, but these guys aren't going to do it. And
I think that if we could really focus on getting
the retailers to accept the USDA Harmonized GAP
Plus+ would be a major win because this product,
you know, it's safe product.

MS. MCENTIRE: Yes. Which, you know,
as Kiley said, even the USDA Harmonized GAP Plus
is recognized by GFSI, so retailers should be --
should accept it. Now, it's not truly
benchmarking because it can't be the structure
that is through government. You cannot -- it's
ineligible for true benchmarking. But it has
been recognized. On the technical side, it has
been recognized by GFSI.

So this is really frustrating to me to
hear that the buyers continue to deny market
access when the product has -- and the production
processes have been demonstrated to be in
accordance with the Harmonized. And so --
they have local programs and they will accept
that product from the small growers in a local,
regional area. But for us, at our volume, we
can't buy that product from that same grower and
fit it into our DCs in a different area. I mean,
it's just ridiculous.

MS. MCENTIRE: It is. I mean, it's
not logical, right? So I do have one member of
my team, Dr. Emily Griep, who is focused on the
Harmonized. And a big part of what she's doing
is reaching out to the buying community, to the
big buyers, to try to educate them about
Harmonized, whether it's through USDA or through
one of the other audit organizations, to invite
them to participate in a process as we update the
Harmonized so that they see the rigor, the -- you
know, the science behind the standard. And
ideally, our objective is to increase acceptance
of the Harmonized.

MR. BROWN: Thank you.

CHAIR CARR: Anybody else?

MS. HARPER-LARSEN: Number one, thank
you very much for presenting. You did mention
the die-off rate, and at CPS there was some
science that was presented that the die-off rate
may not actually be accomplishing what is written
into the regulation?

MS. MCENTIRE: Yes. And we have this
odd situation where, at the equivalent, we go
four days to achieve your data. I kind of
skipped over it, but it was on the slide that was
in the California LGMA that -- for overhead water
use that it is 21 days. So that's quite a
difference between, you know, four days being
adequate, saying, no, it has to be for -- at
least for leafy greens, has to be 21 days.

This is an area where I suspect we may
have differences for different commodities, that
there are, in fact, different die-off rates
depending on the density you're planting, the --
yeah, it's really about the amount of UV light
that's contacting the microorganism on that
surface.

So I think this is an area where we
can make improvements, but there's adequate data not just those presented at CPS, but there's been some additional research that shows, under many circumstances, where these may not be protective. So I would be very cautious about relying on those four days. It's not to say 21 is perfect, even for romaine. We simply don't know. But it was -- felt that that was a prudent timeframe to use for leafy greens.

MS. HARPER-LARSEN: Since we see that leafy greens and their conversation of what they do tends to work its way through the rest of the industry, what do you see coming down the pipe for us as many of us approach our planting season?

MS. MCENTIRE: First, I think that it's important to communicate -- and, you know, this is a responsibility that I'll take on, to communicate to bios that not all products are leafy greens, that the risk is different depending on the product and, you know, several aspects and attributes of that commodity.
So I would not want to see someone just take the California LGMA water metrics and replace leafy greens with fresh produce. I don't think that would be appropriate. But the concept of assessing the risk of your water and being able to defend -- particularly, if you're using surface water to be able to defend why that water is not risky. I think that that's where growers should be very mindful of how they're going to make the case because it's obvious that testing for generic E. coli is not the way to measure or assess the risk of that water when it comes to public health associated with the consumption of that product.

MS. HARPER-LARSEN: Can you address some of our bullet points and maybe give us -- since she's not going to be available to us tomorrow, United's opinion of some of those? And --

MS. MCENTIRE: Sure. So I left my notes at my seat, but I do remember a few of my comments. One is that I would be very cautious
about the perception that there would be an unfair expectation of foreign production versus domestic. So there should be -- absolutely should be a level playing field, and I think that we need to urge the agencies to ensure that, indeed, there is.

So even as we're talking about water or other aspects of production, that what U.S. producers -- is standard that U.S. producers need, that we have a way of verifying that that's being met for all types of fresh produce that's going to be coming into the United States. But I don't think that we should feel that we need to only inspect farm produce, and that domestic produce is, you know, always going to be okay because, clearly, the evidence supports that we have issues domestically as well. So I think that having -- you know, just maybe wordsmithing a little bit to make sure that that's clear is one area I have good feedback.

I was surprised to see mention of the Prevent Controls Rule because that is for
facilities that are required to register with FDA
-- oh, thank you. Yeah, all my notes. And I
will leave them with you. The Preventive
Controls Rule only applies to facilities required
to register with FDA, and it's very clear that
farms are not required to register with FDA.

As you mentioned, the Preventive
Controls Rule covers breakfast cereal and
crackers and, you know, like, everything in the
grocery store that's not regulated by USDA and
FSIS with very few FDA exceptions is covered
under Preventive Control. So I don't think you
want to get lost down the Preventive Controls
track. I think stay focused on the Produce
Safety Rule is where I would encourage the group
to focus.

On working with the agencies, with FDA
and CDC, with our advisories, this is something
that United is committed to because it's just a
whole lot of work when you're the one fielding
hundreds of calls and texts and emails. It's
like, oh, I need -- I have a real motivation to
make sure that things like this don't happen again.

I can say that we've made progress. I feel -- I see that we've made progress in working with the agencies and having better communication and better dialogue. There are some legal barriers and there are some, just, situational kinds of barriers.

So, for example, the idea of having a fresh fruit and vegetable regional food safety technical expert and regional grower/stakeholder advisory committee to be able to work with the agencies, well, what if a member of that committee is the one that's -- that maybe we don't know it up-front, but later it's found out that they were involved in this situation, you know? How do you prevent that sort of conflict of interest when the reason that an advisory is issued is because all the facts aren't known yet?

So there are some real challenges in establishing those types of relationships and in establishing those boards or committees or groups.
of experts that the agencies can tap in the event of an outbreak investigation. Nevertheless, I think that there are things that we can do that kind of get at that.

And so myself and Dr. Bob Whitaker of PMA, who I've worked very closely with, we have a proposal into both FDA Frank Yiannas and CDC Amy M. Williams about structure through with collaboration could be improved. And both before as well as during, and then even after an outbreak to do, sort of, that hotwash, that debrief, on a situation.

So I think that we're all kind of seeing things the same way, that what's happening now is not ideal, not where we want to be, and all recognize the need to collaborate. But I think exactly how we do that -- there are some legitimate issues that need to be overcome.

This one -- my main point's really the foreign piece, the preventive controls piece, the working with the agencies, and then even some of the language around the FSVP. The FSVP
inspections are not of produce. They're not of product, any product. It's the inspection of the importer and the importer's records. So that produce can still be inspected, but it would be inspected under the Produce Safety Rule, and that would be done in-country.

So FDA does have staff around the world and will perform on-farm inspections for fresh produce that is going to enter the United States, just, it's not under FSVP. FSVP is for the importer. And just today, FDA came out with their announcement of how they have issued a warning letter, which, you know, is one of the bigger sticks that FDA has to work with: a warning letter against an importer.

It wasn't related to fresh produce. It was related to a tahini product. But there is a new type of import alert that FDA now has at its disposal that will detain product at the border if the importer is known not to comply with FSVP. And there's no way that you can test your way out of it, so it's unlike other import
alerts. I found that to be very interesting and potentially quite powerful. So that's my feedback on your bullets.

MS. HARPER-LARSEN: Thank you.

CHAIR CARR: Any other questions?

MR. SIEVERT: I have a question.

MS. MCENTIRE: Sure.

MR. SIEVERT: So have we made enough progress since the last two advisories to where, if something happens again, we will be able to get enough resources together to do the actual recall versus the advisories? Is it that much -- but I'm sure there's been a lot of dialogue about how we execute that.

MS. MCENTIRE: So no matter how I think about it, I think I come up with an answer of no. And in part, this is because one of the -- well, the reason that an advisory is issued is because FDA can't trace back to determine who is producing that contaminated product. So there's a fundamental traceability issue that is not unique to fresh produce, but I think that it is --
- I think traceability -- because of the perishability of the product, we rely more heavily upon traceability, upon records that exist.

When I'm talking about traceability, I'm not talking about what's printed on a package or the sticker that's on a case. I'm talking about the records that exist in systems. Sometimes they're on clipboards or file cabinets or in an ERP system or a warehouse management system.

But trying to stitch all these bits and pieces of information, starting with, like, my shopper card data at the grocery store, what did I buy? And when we use something like a generic PLU. All that I bought is a head of cauliflower. Even if it's branded. You know, if you were using the generic PLU, that information is then lost and it's, well, hey, grocery store, whose cauliflower were you selling at this rough timeframe? And trying to go back from different parts of the country and figure out who's that
common cauliflower grower.

   It's immensely complicated and the FDA and CDC are not -- they are no longer willing to spend however many weeks or months trying to collect this information while people continue to get sick. They feel that they know that it's cauliflower, they're going to make a -- put out an advisory to stop the consumption of cauliflower until they can figure out whose it is, if they can even figure it out.

   That's one of the reasons that I think, as an industry, we need -- that's an area where we can do better. I think on the contamination side, how do we prevent contamination from occurring in the first place. If we don't have outbreaks, then, you know, we don't find ourselves in this situation. That's another area where we can do better.

   If we do have outbreaks, and especially if traceability is poor, that's an area where I do see improved communication. The nature of the communications I get -- the heads
up that I get from FDA and CDC -- more so from
CDC because they're non-regulatory, so it's a
little easier to have a conversation with them.
I have seen improvements there, but at that
point, in my opinion, it's kind of already too
date. Does that answer your question? Is that
the answer you were expecting?

MR. SIEVERT: Not the answer I wanted,
but, yeah, I understand.

MS. HARPER-LARSEN: Talk about the
collaborative idea that you have already brought
to FDA and CDC. Is that something that you can
send over to us for our work group to look at so
that we could consider your thought process as
well as our own?

MS. MCENTIRE: Yeah. I don't see why
not.

MS. HARPER-LARSEN: All right.

MS. MCENTIRE: You know, once you send
it off to FDA and CDC, it's FOIA-able anyway, so
it's out there. It was done under the banner of
the Romaine Task Force, but it -- that case in
particular is definitely not unique to romaine.
I think that it's applicable, really, to any type
of food, any type of situation.

MS. HARPER-LARSEN: And do you know
where we stand, really, with narrowing down
further in Yuma, in particular, right now, beyond
the last report that came out --

MS. MCENTIRE: Of the --

MS. HARPER-LARSEN: -- number of
fields? Like, have they been able to actually go
--

MS. MCENTIRE: I think the records are
what they are. And so from the traceability
standpoint, you know, it sent FDA and the state
off in -- you know, hunting around this wide
geography of possibilities. We can be reasonable
confident that every single one of those
possibilities isn't it, but there's way too much
noise in the traceability records and not the
clear signal. So unless testing found a
positive, I think we're kind of stuck with what
the trace-back investigation showed.
MR. WILKINS: Going back to his question, I understand why you said no about the advisory inspect. In '07, '08, '09, somewhere in there, there was an advisory not to eat tomatoes and it did not end up being a tomato.

MS. MCENTIRE: Right.

MR. WILKINS: Do we feel that we've at least -- can narrow it down to the correct commodity?

MS. MCENTIRE: You know, that's usually the first question that I'm asked when there's a hint of an outbreak. How can you be sure that it's romaine or papayas or basil or cut melon or whatever piece, maybe -- how can they be sure? And I think the -- especially after the tomato issue, CDC and FDA, they don't want to be wrong.

So I think they've learned their lesson, and they usually share the epidemiological data that supports their assertion that it is whatever product they say it is. But we were all relying on people's memories
about what they ate, and you are trying to
compare that to, you know, for this whole
population, what did they eat that was different
from what we would've expected people to have
eaten.

And the what we would've expected
people to have eaten data are imperfect and not
necessarily current, but they are in the process
of being updated. CDC is working on that. And I
think that's an area where you may want to
explore if there is an opportunity to help CDC
get a sense of, what do people eat today? You
know, consumption habits have changed. There are
different products that are popular, so looking
at data that are a decade old and saying, well,
you know, 67 percent of people in 2008, I think
this data may not be -- you know, it doesn't help
us.

So there are still challenges on the
epi side, making sure that we do have the right
product. But at least in the past several
outbreaks, the data have been pretty compelling.
MR. WILKINS: So just identify that you know the commodity and you know the source. And they're not certified under the basic, like -- is there any heat being thrown back on that retailer that they did not buy the basic food safety requirements that's recommended?

MS. MCENTIRE: From a regulatory standpoint, I have not seen that happen. But with that said, something like Foreign Supplier Verification Program or the supply chain program under Preventive Controls is quite new. So there wasn't really an opportunity -- FDA didn't have the ability to enforce that against the buyer, you know, for buying from someone who was -- had substandard practices. The enforcement has always been against the person who had substandard practices. That's on the regulatory side.

On the civil litigation, the lawsuit side, then, you know, lawyers will go after anybody in the supply chain who has money, and usually that's not the grower. Usually, it is
somebody later in the supply chain. So I think retailers feel -- should increasingly feel that financial pressure to make sure that they are buying from reputable suppliers and should have that motivation.

MR. WILKINS: Are we missing that in a bullet somewhere? You know, that the -- you know, I work for a family-owned company of retail stores, and the FDA advised that we pull it, no questions asked, okay? And I would say a majority of retailers are going to do that. So now you're falling back to retailers that possibly did it right, the producers that did it right. And I think there's a -- there are always people that are cutting corners and one bad apple --

(Simultaneous speaking.)

MS. MCENTIRE: Right.

MR. WILKINS: -- the whole barrel.

MS. MCENTIRE: Right.

MR. WILKINS: And I just think that, you know, if we find out the source, and that was
bought without the minimum food safety standards, that that's one more step. I think if retailers -- if we're doing it right, we ought to be -- have some protection from those that don't.

MS. MCENTIRE: And, you know, the majority of people within the industry are those good players. It is, kind of -- usually it seems to be a bad apple type of situation, and it really ticks off the people who are making those investments in food safety, who are doing the right thing. And they want some sort of credit for that.

And at this point in time, it's more difficult to figure out how to clear them, how to communicate that they're not involved. That even if we don't know who is involved, that we can be reasonably certain that this population is not involved. There's not a good mechanism right now to do that.

I did observe, though, that the Food Marketing Institute, which is the trade association that represents the retailers, they
put out their recommendations to their members --
to the retail members on leafy greens. And one
of the recommendations is to only purchase -- if
you're purchasing leafy greens from California or
Arizona, to only purchase from those who are
following the LGMA standards, and were audited to
the LGMA standards.

So, again, it's a voluntary program.

It does cover, like, 99 percent of production,
but there's a lot of production out there. So
that 1 percent is -- you know, still somebody is
buying it. So determining how we ensure that
it's communicated through to procurement, you
know, that suppliers need to provide reasonable
demonstration of food safety is critically
important.

MS. HARPER-LARSEN: And I think maybe
what we see in food safety is a different sort of
in vernacular, okay? But when we're talking
about retailers or buyers in particular, we're
talking about internal requirements. And what
we're sort of looking at with our bullet points
is legal minimums. So audits are not a requirement legally as it stands right now, so they -- that goes into a business decision of the buyer and of the retailer.

So when we're talking about establishing a level playing field, bringing everybody up to minimum produce safety rule standards, both domestically and foreign, is where we, as a grower community, have to work to do that, okay? And then establishing with brands that we won't allow purchases beyond established minimums, so -- okay?

And let's talk about this, okay? Deviating from your own internal specification, okay? That's incredibly important as well. Or maybe it's from a commodity standpoint as well as our subgroup. And I know our subgroup was, like, willing to look at anything within our recommendations. We just have to make sure that we're talking, sort of, the same language.

A audit requirement from a retailer versus a legal requirement from a regulatory
body. And unfortunately, they are two different animals. I'd love to see the audit requirements. Makes it a whole lot more simple, and it gives us metrics. Defined metrics that we have historical on. But audited, unfortunately, does not mean safe.

MR. WILKINS: Yes. And you got the whole local piece of it.

MS. HARPER-LARSEN: That's correct.

MR. SIEVERT: You got the outside purchasing piece, also.

MS. HARPER-LARSEN: That's correct.

MR. SIEVERT: So you don't have enough product and you go buy it from somebody else, and you don't know for sure. You'd think it is --

MS. HARPER-LARSEN: And you buy it from an audited facility --

(Simultaneous speaking.)

MR. SIEVERT: -- or whatever. You know what I mean?

MS. HARPER-LARSEN: And I think that's what we maybe need to look at as an industry, and
that's probably beyond the capacity of our
subcommittee and of this committee, but our trade
organizations and coming up to a standard of
behavior where we have a supply chain that is as
infallible, okay, as we ultimately strive to be.
That when we have the opportunity to buy and make
a dollar, that we make sure that it's not at the
compromisation of an entire commodity group.

MR. SIEVERT: I don't look at it as --
I'm looking at it more from if Dole doesn't have
enough product and they have to go buy from
somebody that they know exactly what they bought.
I guess I'm looking at it more that way. I think
you have a -- we have so many rules around what
we can and can't buy to protect our members.
There's nobody out there making that unsafe
decision to buy on the outside to save the dollar
from somebody that we don't know we're doing
business with.

MR. WILKINS: You just made some
audibles that you're not 100 percent sure that,
like in Dole's case, that they did what they --
(Simultaneous speaking.)

MR. SIEVERT: No. And I know. Any XYZ Company --

(Simultaneous speaking.)

MR. SIEVERT: Let me correct that.

That's XYZ Company. I'm not saying Dole or GNA or anybody. But my point is, that companies are out there buying to fulfil orders, and it's not all their product. And if they grow 95 percent of their product, to me, they're buying 100 percent of their product because that's what I -- we've had conversations today about people buying product from other people to get it into -- to handle year-round capacity, right?

So it's not a -- I think it happens out there. I think that's where we don't know -- I'm assuming, because I think the one romaine advisory was -- most of the sicknesses came from food service. Is that correct? The first one? Or was it the second one?

MS. MCENTIRE: The second one. It is easier to have a cluster of illnesses that you
can trace from food service. It's kind of harder
to pick up through retail. It's kind of easier
to tell did everybody all eat in the same
whatever restaurant. So there may be a little
bit of bias -- but there can also be different
supply chain channels and so --

MR. SIEVERT: Right.

MS. MCENTIRE: -- that can be helpful
in trying to tease apart what's happening.

MS. HARPER-LARSEN: But, Tommy, if you
get something that you feel like our subgroup
needs to talk about, I'd hate to pull you away
from trade, but come over and let's talk about it
because --

(Simultaneous speaking.)

MR. WILKINS: I just know that in both
of our instance, we've thrown away an immense
amount of food and it's warranted. I mean, if
there's an advisory that you can get sick from
cauliflower, we have to pull it. There's no --

MS. HARPER-LARSEN: Right.

MR. WILKINS: That's not the question.
But for those that try day in and day out to do
their job with the rules that we are, I guess I
don't know that we police the bad eggs. I don't
know that we can. But it's just an -- it's
expensive not to pull it from the shelves, but
it's expensive to pull it from the shelves.

CHAIR CARR: Anything else?

MR. WILKINS: Thank you.

CHAIR CARR: Thank you.

MS. MCENTIRE: Thank you.

CHAIR CARR: Darrell, do we have any
housekeeping?

MR. HUGHES: Yes. Just briefly talk
about tomorrow. So we'll kick the day off, going
into work groups and refining recommendations,
position statements. I think the overall goal is
to pinpoint which ones need work and try to work
on them collectively within the work groups, and
then come together and then Chalmers will have
like what we did today with each of the leads,
present the status.

If there are any recommendations that
you think are good to go, let's at least mark
those off and then put them before the full
committee so that we make sure that we're all on
board. Like, okay, the work group says XYZ
recommendation. We don't think it needs any
changes. I think it's a good idea to make sure
that the full committee is on board. Does that
make sense?

And we can do that for any
recommendations that any work group thinks that
they're solid on. Any recommendation that needs
work, obviously, we'll work on that in committee
-- I mean, within your subcommittee work groups,
and then you'd come back and give an update on
where you think you want to go, get some insights
from your members. And then even beyond that,
work over the next few months just making them
what you all want them to be.

CHAIR CARR: So let me expand on it a
little bit more. So the general thought is if we
come back tomorrow, we get together, break into
our work groups for about an hour. Some people
may already have their work done that they may
have caused some work to be done. Then come
back, we can get 45 minutes for each working
group to talk. And if we can get to a consensus
place within that 45 minutes, we can vote on and
approve it. If we can't get to a consensus
place, we go to the next group.

And if somehow we're running ahead of
schedule on one group or the other and we got
time at the end, we can then come back to the
other group. Otherwise, if we don't get there in
that 45 minutes, that means we're going to be
working with this after this committee meeting,
being on conference calls and emails and stuff
like that.

If that's acceptable to everybody,
knowing each topic has got a lot of different
variables to it, deciding an allocation of time
has to be the order of the day; otherwise this
work could dominate your whole day and we
wouldn't get anywhere else. So if that works for
everybody, then we will do that and come back.
And I don't know how we're going to put it on the board if we got new ones, so.

MR. HUGHES: Yes. So what I'm thinking is each lead, if you have your -- do you have your laptops here?

I've got an adaptor. I'll bring my adaptor, we can just swap out laptops because I don't want you to waste time emailing them to me and then they get lost in the cloud somewhere --

CHAIR CARR: Some may be more converse, some may be easier to agree to, some may really have, you know, more in-depth conversations, or they -- I do want to give everybody the time to share their opinions on all the different working groups, so.

MR. WILKINS: Are those PDF files you've sent us or can we do some doctoring on them?

MS. HARPER-LARSEN: On the presentations.

MR. WILKINS: Yes.

MR. HUGHES: Yes.
MS. HARPER-LARSEN: They're PPTXs, aren't they?

MR. HUGHES: Yes. They're PPTXs, yes. You can update them from there, yes. Do you --

MS. HARPER-LARSEN: Can we do a subcommittee consent agenda, like, if we come together, we can go ahead and just say, we consent. We have a consent agenda for this entire part of the presentation with these particular amendments?

CHAIR CARR: Yes, but it will be open to the whole group to not be a consensus or to offer suggestions or anything like that.

MR. HUGHES: Right. But think what she's saying is, like, if the Food Safety Subcommittee or work group says, we agree to move all of these forward to the full committee, that can happen in one move. And then from there, it's up to the full committee to assess each one and determine whether to not you, as a unified body, wants to accept it or ask for changes or whatnot.
MS. HARPER-LARSEN: And we can do that with some modifications that we've already made as long as we read them aloud and present them as one --

(Simultaneous speaking.)

MR. HUGHES: Right. Yeah, yeah, yeah.

MS. HARPER-LARSEN: Yes?

CHAIR CARR: So let me back up on that. Would you be able to provide the language -- the change language?

MS. HARPER-LARSEN: Yes.

CHAIR CARR: Yes? Okay. As long as you --

MR. HUGHES: Right. Yes.

MR. SMITH: What constitutes consensus? 100 percent? 90 percent? What's the threshold --

(Simultaneous speaking.)


MS. HARPER-LARSEN: Is it a -- are we 66 and two-thirds? Are we simple majority? Is
it a all yay or it's an all nay?

MR. HUGHES: I would say simple majority.

MS. HARPER-LARSEN: Okay.

MR. HUGHES: Oh, yes, that's right.

We do have a policy statement. I forgot I created that.

(Laughter.)

(Simultaneous speaking.)

MR. HUGHES: I'll provide that for everyone tomorrow because I have to do a little with it. But we'll make sure that that's clear at the top of the meeting tomorrow.

CHAIR CARR: All right. So I do have a motion and a second to adjourn, but I do want to say, is there anything else that anybody would like to bring up and discuss?

MS. GLEASON: Just a quick question. If we don't reach consensus today, what are the final dates that we have to --

MR. HUGHES: Well, no one's going to reach a consensus today. We're going home today.
MS. GLEASON: I mean -- sorry, tomorrow. Tomorrow.

CHAIR CARR: Well, this committee ends in the end of September with the annual budget, so we need to be done; otherwise, we're not a standing committee the 1st of October.


CHAIR CARR: Is that correct?

PARTICIPANT: Yes.

MR. HUGHES: This committee does not -- oh, from a monetary standpoint, yes. From a monetary standpoint, that is absolutely true. From a charter standpoint, your charter expires March 2020. And so will we meet again and spend money after September? No. But can we have a conference call? Yes.

CHAIR CARR: Can I get a consensus that we want to have this done by the end of September?

(Chorus of yes.)

MR. HUGHES: I like that idea.

CHAIR CARR: Anything else?
MR. TISON: I amend the motion to adjourn to a motion to recess --

CHAIR CARR: Thank you. So amended.

MR. HUGHES: 8:00 a.m. back here, ready to go.

(Whereupon, the above-entitled matter went off the record at 4:58 p.m.)
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| 1576.1 | 138:2 99:7,9 |
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| 126.21 | 150:2 210:9 |
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| 243:12 | 256:15 265:4 |
| 267:8 | 269:10 293:7 |
| 293:14 | 294:2 300:5 |
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| 208:1,12 253:7 |
| 345:16 361:17 |
| 2.04 | 238:5 |
| 2.4 | 214:5 234:19 235:18 |
| 236:7 265:2 266:5 |
| 268:2 |
| 2/3 | 261:21 |
| 20 | 28:22 29:6 30:5 |
| 105:8 | 112:21 114:8 |
| 125:9,17 133:12,13 |
| 233:16 253:17,18,18 |
| 265:4 269:10 338:2 |
| 348:10 |
| 20- plus | 54:3 |
| 20,000 | 233:14,14 |
| 2000s | 46:22 |
| 2001 | 125:18 |
| 2002 | 146:22 |
| 2004 | 79:17 |
| 2005 | 36:19 |
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Fruit and Vegetable Industry
Advisory Committee Meeting

Before: USDA

Date: 08-14-19

Place: Arlington, VA

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

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The Advisory Committee met in the Fairfax Room of the Hyatt Regency Crystal City Hotel, 2799 Richmond Highway, Arlington, VA, at 8:00 a.m., Chalmers R. Carr, III, Chair, presiding.

PRESENT
CHALMERS R. CARR, III, Chair
KILEY HARPER-LARSEN, Vice Chair
RICHARD E. BOWMAN
JOHN CHANDLER
TINA ELLOR
K.C. ELY
BRET ERICKSON
MOLLY GLEASON
JULIE L. GORDON
JEFF HUCKABY
BRIAN KIRSCHENMANN
TOM LIPETZKY
KELLY POWELL-MCIVER
READE SIEVERT
STEVE SMITH
BRUCE TALBOTT
GREG TISON
DERRIN WHEELER
TOMMY WILKINS
CHARLES A. WINGARD
DONN ZEA
MEMBERS NOT IN ATTENDANCE

DAVID K. BELL
MICHAEL JANIS
PAUL PALMBY

STAFF PRESENT

DARRELL HUGHES, Designated Federal Official
LEANNE SKELTON, AMS, USDA
P-R-O-C-E-E-D-I-N-G-S

(7:59 a.m.)

CHAIR CARR:  Welcome everybody back this morning.  I'll call the meeting officially to order.  As we said yesterday, we are going to break up with our working groups from 8:00 to 9:00. And then we will come back and start discussion on each working group's recommendations. We have tables back there.

MR. HUGHES: Before everyone splits up, I pulled open the policies and administrative procedures for completing the recommendations. So I said yesterday that I was going to go over the process for approving recommendations.

And so first, let me read the section that is about completing workgroup recommendations. Developing workgroup recommendations follow these broad steps.

One, the workgroup prepares the recommendation or discussion document. Two, during the committee meeting, the workgroup presents its recommendation for discussion by the
full committee.

Three, at any point in the process prior to the committee's vote on the status of the recommendation, the presenting workgroup may convene and vote to withdraw this recommendation based on approval of this action by the majority of the members of the workgroup. Once presented, that -- number four, once presented, that committee votes on the workgroup recommendation.

The committee, which is the full committee, may take the following actions for each workgroup recommendation. One, adopt the recommendation as presented by the workgroup. Two, amend and adopt the amended recommendation. Three, reject the recommendation, or four, refer the recommendation back to the workgroup for further development.

And so the process for voting under the Conducting Business Section, which is on page 7 of the policies and procedures, the second bullet decides the vote. Two-thirds of the votes cast at the meeting of the committee, at which a
quorum is present, shall be decisive of any
motion.

Following Robert's Rules of Order, all
abstentions will be recorded as such and will not
be included as part of the total vote cast.
Similarly, all committee members who recuse
themselves due to conflict of interest or absent
shall be recorded as such, and their votes will
not be counted toward the number of votes cast.

Votes, both abstentions and recusals
will be considered in order to establish a
quorum. And so, based on that, I would say that
the voting mechanism for the recommendations is
two-thirds, and it would be two-thirds within --
I guess, no, within the workgroup, I don't know
that you all need to vote to bring forward.

I think you just bring it forward
because you develop the work. You guys have
worked on it already, and so I think you just
bring it forward to the committee. And then two-
thirds of the committee has to vote to approve
it. Right?
CHAIR CARR: Yes.

MR. HUGHES: All right. Was that in there already?

CHAIR CARR: No, you just read it, and that's what I said.

MR. HUGHES: Okay.

CHAIR CARR: All right. That's it.

MR. HUGHES: All right. So the committee leads will find a table, and I guess if anybody wants to go out.

MR. WILKINS: Trade group is coming right here.

(Whereupon, the above-entitled matter went off the record at 8:03 a.m. and resumed at 9:34 a.m.)

CHAIR CARR: Okay. So since we are starting back a little bit late, if this is okay, and I'll ask you for a consensus on this. We will go, and now we will cut everybody to 30 minutes, which will still keep us on time.

But at the end, if we feel that we still need more time, we could always stay, but
to try to keep us on task to be done by 12:00.
So we will go in the same order we presented in
yesterday, and each group will have 30 minutes of
discussion.

If it takes less than that, then
great, we'll move on. If it takes longer than
that, we'll table that until the end, and we have
time to come back. So the first group -- who
went first yesterday?

MR. WILKINS: Trade did.

CHAIR CARR: Trade went first
yesterday. They will start, and we'll break
after that or break at 10:00 o'clock and come
back.

MR. WILKINS: You're going to put this
on the screen, Darrell?

MR. HUGHES: Yes. It's coming on
there. It's coming. All right.

MR. WILKINS: All right. My name is
Tommy Wilkins, and I'm going to discuss the Trade
workgroup, trade promotion. We have a couple of
things we want to talk about.
Our first recommendation comes in the form of the Trade workgroup recommends that the Fruit and Vegetable Industry Advisory Committee, that it should inform the Secretary of its concerns, and request that the Secretary make our position known to the President and Congress.

The critical importance of ensuring that export market promotion programs continue to be made available for the United States agriculture to successfully compete against foreign competition and export markets and that available funding for these programs be increased to offset the balance of trade restrictions and impacts of trade disputes.

The Trade group recommends that the Fruit and Vegetable -- are we going to do these one at a time or as a group?

MR. HUGHES: I think you would, based on the buckets that you were going through, you would read each one and then talk about the trade promotion recommendations as a whole, right?

CHAIR CARR: Well, it's a part of the
group. While we're here, if they're -- provided we vote the whole package, but let's just go with each one. So does anybody have a problem with the number one statement on the board?

MR. WILKINS: Do we vote now?

CHAIR CARR: No. We'll come back and do it all together.

MR. WILKINS: Our second bullet point is the Trade workgroup recommends to the Fruit and Vegetable Industry Advisory Committee that it should inform the Secretary of its interest in developing a sustaining U.S. grown food program that offers additional promotional support for helping qualify agricultural competitors to compete against foreign competition within the United States.

CHAIR CARR: Questions or concerns?

MR. WILKINS: Number three.

MR. HUGHES: There isn't a number three for trade promotion. Is there? There's only these two. Do you want me to go back to Buy American?
MR. WILKINS: We had three categories. This is the first category that we're discussing.

CHAIR CARR: So let's move on to the second category.

MR. HUGHES: Okay.

MR. WILKINS: So the next category.

MR. HUGHES: Okay. It's Buy American.

MR. WILKINS: All right. In talking about Buy American, the committee supports the Buy American requirements for school food purchase, enhanced by Section 4207 of the Agricultural Improvement Act of 2018.

The committee requests that the Secretary consider meaningful improvements in the guidance for and enforcement of this provision and ask the Secretary to keep the committee advised of his actions.

Recommendation revisions include the following. Strike the significant cost different language from the Buy American exception provided to schools. This exemption is significantly too ambiguous and does not recognize the myriad of
fruits and vegetable options that are available should the desired first choice be cost-prohibitive.

Require that public notice when schools elect to purchase foreign-sourced food products instead of domestically produced, including and required that school maintain documentation to justify foreign purchase of fruits and vegetables over domestic.

For instance, whether alternative supply sources were considered, whether bids were sought at the best time of the year to allow for domestic participation, whether substitutions were considered, for example, applesauce instead of peaches, pears instead of mixed fruit cocktail, et cetera.

MR. HUGHES: And there's a third one here.

MR. WILKINS: Establish financial or commercial, which restrict from supplying schools penalties for food distributors that misrepresent their food products or who switched foreign
source product for contracted domestic food products.

CHAIR CARR: Go back to the other page. Any questions or concerns with this page? Next page? Any concerns with the last part? Moving on.

MR. WILKINS: So we're addressing protecting U.S. growers, and our recommendation is remedies for domestic product growers need to be strengthened. A resolution process should be added to take into account domestic regional production of horticultural products that allows for sustainable market access to foreign suppliers.

CHAIR CARR: Is this in regard to USMCA or -- is that the intent? You're trying to address that.

MR. WILKINS: Yes.

CHAIR CARR: If there's no comments or concern, then we will take a motion. These are now I guess admitted in the form of a motion to be accepted by the committee.
MR. BOWMAN: At the committee level, there's a lot of debate. And this is the closest compromise we could come up with that addresses the seasonality issue that we thought could get past the committee.

CHAIR CARR: My only concern is it doesn't address trade agreements. Could you add under current and proposed trade agreements, remedies for domestic producer growers? Maybe strike that, but I don't know.

MR. WILKINS: So maybe --

MS. HARPER-LARSEN: I have a discussion point, too. Where did we stand when we had the discussion point relating to H.R. 101 and Senate Bill 16, the improving domestic production, strengthening domestic production? Would that be separate?

MR. BOWMAN: When we thought that it was two-thirds of the committee to get it past, we didn't. We didn't want to bring up something that was going die on the floor, but if somebody wants to make a motion, we can vote on it
MR. WILKINS: So there's two things. If you have something to say, go ahead.

MR. WINGARD: I make a motion that we insert the words in front of remedies in all trade agreements called. Then it would read in all trade agreements call out remedies for domestic produce, so and so on.

MR. WILKINS: I don't have a problem with that, and addresses some of what you're saying. But it does not address what you're saying.

MS. HARPER-LARSEN: I'll make a second motion. I'll second Charles' motion to add the verbiage in front. I second the motion.

CHAIR CARR: Darrell, can you put it back up there?

MR. HUGHES: Yeah. I'm pulling it up here.

CHAIR CARR: So will the working group accept that as a friendly amendment, or do we need to vote on this and have a discussion?
MR. WILKINS: I believe that's a friendly --

MR. WINGARD: It was meant to be friendly.

(Laughter.)

CHAIR CARR: The Chair recognizes that. Darrell, you going to type that in up there? I think that was a simple change, so outside of that, is there any other discussion?

MS. GLEASON: I'm just curious what the resolution process looks like or what the trade group envisions that will do.

MR. WILKINS: The whole intention is to prohibit any product from any country coming in below cost, which is sometimes referred to as dumping. So there has to be a process that would identify and address that.

CHAIR CARR: So to be clear, I'm going to vote, but the resolution process already exists, but currently right now the resolution process means that you must be -- you must have 25 percent of the production within a 365 day
calendar period to be able to bring it forward.

So this is addressing a regional area, like Florida strawberries who has 75 percent of domestic production in February and March in the country and can then bring a resolution, but right now they cannot do that because they don't have enough production in 365 days. So this is to address regional and seasonality issues within current trade agreements.

MS. HARPER-LARSEN: Thank you.

MR. WILKINS: Yes. So in all trade agreements there would be remedy for domestic produce growers. When you get to the strength, and then that's what we're addressing is the fact that the instance that the chairman just mentioned.

CHAIR CARR: So should you say that we recommend that the Secretary works with the Administration, because there's really not a recommendation here.

MS. GLEASON: It seems like the resolution process needs to be strengthened if
that already exists.

MR. WILKINS: I like where we're going with this. We just have to get this in a form that we can put up on the board. And the team can jump in and either add or correct me as I go, but we may recommend to Secretary Perdue that he addresses the resolution process.

CHAIR CARR: You could do that, or you could leave it as a statement and just say the Fruit and Vegetable Advisory Committee believes that all trade agreements, remedies for the growers -- the resolution process should allow for reasonable production.

MR. WILKINS: So that would be another line in the bottom. So let's address that one more time.

CHAIR CARR: So the question is, does this group want this to be a recommendation to the Secretary, which a recommendation, if I understand right, a recommendation gives him -- what we were asking him to do, and he has to report back on what he's done with that
recommendation.

Or you could simply have a statement that says that this committee believes that all trade agreements should have the ability for regional industries to be able to bring complaints for dumping through the resolution process that already exists.

But the problem is it doesn't allow for regional areas to bring those complaints. So the first question is do you want this as a recommendation, which means you're asking the Secretary to do something.

We could ask the Secretary to -- that he should work diligently with the Administration that all trade agreements included. That would be a recommendation. Or you could simply state a statement that this committee believes that in what all trade agreements should have. What's the pleasure of the group and your working group?

Recommendations/statements, you can choose either one.

MR. WILKINS: Can we erase the word
statement then?

    CHAIR CARR: So if you're going to do
that, then we recommend that the Secretary of
Agriculture work with the Administration that in
all trade agreements --

    MR. HUGHES: The Admin and what?

    CHAIR CARR: The Administration --

    MR. WILKINS: -- works with all trade
groups.

    CHAIR CARR: Works with the
Administration to incorporate -- in all trade
agreements incorporate the following.

    MR. HUGHES: With all trade groups.

    MR. WILKINS: I think we're going to
abort the trade groups. We're saying that the
Secretary work with the Administration that in
all trade agreements. All right. Can you just
get that as one screen instead of the bullets to
the left? There you go.

    MR. HUGHES: You can use shorthand
too, because I update everything.

    MR. WILKINS: So we recommend the
Secretary work with the Administration in all trade agreements. Any help here is fine.

CHAIR CARR: That all trade agreements contain remedies for domestic produce. How about that?

MR. WILKINS: And that all trade agreements --

CHAIR CARR: Contain.

MR. WILKINS: -- remedies. Does that answer that? So then in all trade agreements. All right. So I'm going to read this again. We recommend that the Secretary work with the Administration so that all trade agreements --

MR. WINGARD: So within all trade agreements.

MR. WILKINS: So that within all trade agreements, remedies for domestic produce growers need to be strengthened. The resolution process should be added to take into account domestic regional production of horticulture products that allows for sustainable market access to foreign suppliers.
CHAIR CARR: So the resolution process already exists, so it doesn't need to be added. The resolution process should include. It's already there. The resolution process is already there, so it's not to be added. It's got to --

MR. WILKINS: It should be --

MS. GLEASON: Domestic regional production of horticulture products should be added to the resolution process. It should be reversed.

MR. WILKINS: So not taken but can be added to.

MR. HUGHES: So you're saying domestic regional production of horticulture products that allows for sustainable market access to foreign suppliers should be added to the resolution process. Did I hear that --

MR. WILKINS: No I think that's in the wrong place.

MS. GLEASON: Domestic regional production of horticulture products should be added to the resolution process to allow for
sustainable market access to foreign suppliers.

Is that -- no?

CHAIR CARR: I think we're going in a
different direction. Can we cut and paste the
original back up there since we chopped this one
up so much? It's really the resolution process
should allow for regional.

MR. HUGHES: Oh. All right.

MS. GORDON: I have it queued up on my
laptop if you guys want me to read it quick, the
original.

MR. HUGHES: No, that's fine. I'm
just going to save this as a V2 real quick and
then open up both.

MS. GORDON: The original statement
read remedies for domestic produce growers need
to be strengthened. A resolution process should
be added to take into account the domestic
regional production horticultural products that
allows for sustainable market access to foreign
suppliers -- suppliers.

MR. ZEA: In my opinion, and I'm a
member of the subcommittee, I still believe that
the way that it is written places influence on
foreign suppliers rather than domestic producers.

CHAIR CARR: Yes, I don't understand
the last sentence with the foreign suppliers.

MR. ZEA: It's a way of suggesting
that we are not trying to regulate the provision
of foreign supply in the United States any more
fully than it is currently done, but we're
emphasizing that domestic production should
receive more attention.

MR. WILKINS: So a supplier that
covers a retailer 365 days a year has got to have
the ability to source from wherever that is.
What we're wanting to do is we give an American
farmer a chance without changing any of the trade
particulars that we have right now.

So what we're wanting or what our
intent was to put a little different spin on the
word seasonality with the -- to protect the
regional farmer. And I just believe that we, you
know, a majority of the people that are taking
care of retailers 365 days a year have -- have
got to have access to other supplies other than
domestic. We just need to protect them from any
--

CHAIR CARR: So let me ask you this
question to that. So in that situation where
you're supplying 365 days a year, and you're
actually able to buy products at below production
cost in the U.S. But you have products available.
On a regional basis, wouldn't have -- would you
allow for that regional producer, that regional
industry to then make a claim against that --
Mexico allowing products to come up here at that
cheap rate during a period of time.

MR. SIEVERT: Doesn't the original
piece go back to that, basically anti-dumping,
right? I mean that's really what you're trying
to protect. You're trying to protect against
Florida berries being $8.00 and Mexico berries
coming across at $4.00, right?

I mean that's -- you're looking at the
dumping not -- I mean whoever's supplying that
retailer year round is going to do the best job
they can to stay competitive, right? You're
protecting against dumping. That's what you're
looking for.

CHAIR CARR: So the southeast is
asking that the ability to make a regional claim
on dumping be included in the trade agreements.
That's what's really happening here. They note
in certain industries they don't have the ability
to do that in certain timeframes.

So basically just asking that the
resolution process take into account regional
production is what we're asking for. Where you
go with the foreign supply down below that, I'm
not sure how that ties in. It's just making a
request that that be -- the resolution process
right now precludes a regional industry from
bringing a challenge.

MR. SIEVERT: Because of the
percentage of year they provide supply.

CHAIR CARR: Right.

MR. SIEVERT: Okay. So that's
probably where that needs to go then, right?

    MS. GLEASON: So take out the last
part about the last part about sustainable market
access for foreign suppliers?

    MR. WILKINS: I'm going to battle that
one a little bit because I don't want to lose the
sight that companies in the United States support
a retailer for 365 days a year, we have to
maintain that we have access to alternate
suppliers, and that's important.

    Okay. But I do think that we could
work on some verbiage around what you're saying
there. How do we -- so the remedies for domestic
produce needs to be strengthened. I think right
there is where we're looking for maybe a little
change in verbiage there.

    CHAIR CARR: So let me do this. It's
time for break. We'll take a break. Hopefully,
during this break somebody can come up with some
language that we can come back and discuss.

    If not, we're going to need to go on
to the next group, and then we will come back and
discuss this then. Again, we've got to give consideration to all the groups. So if that's okay with everybody, we'll be back in 10, 15.

(Whereupon, the above-entitled matter went off the record at 10:02 a.m. and resumed at 10:15 a.m.)

CHAIR CARR: Okay. I think we have language here that addresses both parties concerns. If we can come to a real quick consensus on this, we're going to do this. If we can't, we're going to punch it back. So Tommy, why don't you read it?

MR. WILKINS: On the recommendation of attending U.S. growers, we recommend that the Secretary work with the Administration so that within all trade agreements, remedies for domestic produce growers need to be strengthened.

A resolution process should be added to take into account seasonal domestic production of horticultural products in regards to anti-dumping. This provision should not preclude for affairs sustainable market access to foreign
suppliers.

MS. HARPER-LARSEN: I make a motion that we accept this as written.

CHAIR CARR: The way we've been handling this is if there is a consensus on this, which we already have consensus on everything else they put forward, then the group is putting this forward as a recommendation. We vote on it as one. Let's be clear. Do we have consensus on this language as written? Is there any further work to be done?

MR. ZEA: I'd just suggest a technical amendment. Take out the word for between conclude and fair.

CHAIR CARR: Okay. That's done. Make that happen please. I know we've broke it up on this, but we have gone through each one of their recommendations. And Tommy, is it your intent for your sub working group to put this forward as one big package, and you would accept a motion to be approved?

MR. WILKINS: Yes, I would.
CHAIR CARR: Do I have a motion?

MS. HARPER-LARSEN: You do.

CHAIR CARR: Do I have a second?

MR. WINGARD: Second.

CHAIR CARR: Any discussion? All those in favor of passing the Trade group recommendations, please say aye.

(Chorus of ayes.)

CHAIR CARR: Any opposed? Good. One down. So who's next?

MR. WILKINS: All right, Steve. Show them how it's done.

MR. SMITH: Thank you. I hope ours goes maybe a little quicker and smoother, but you never know.

MR. WILKINS: I will not take that personally.

(Laughter.)

MR. SMITH: While Darrell's putting this up, we made a few editorial changes, not substantive changes. We did a little wordsmithing to some of the paragraphs.
MR. HUGHES: Can I go directly to the research recommendation?

MR. SMITH: Yes. So from what we had yesterday --

MR. HUGHES: One second. I notice that the text on this slide changed, and I don't know. Is this for background?

MR. SMITH: Yes.

MR. HUGHES: Okay. Got it. So we can skip over that.

MR. SMITH: I didn't get the font change. Okay.

From what we had yesterday, we believe that all specialty crops should be protected from new and emerging crops that are specifically listed as specialty crops in the Farm Bill.

Do you want to do both bullet points? Okay. And the Fruit and Vegetable Industry Advisory Committee is very concerned about the impact on the specialty crops from the recent decision by the USDA to define hemp as a specialty crop.
CHAIR CARR: Any questions on that before we move on? All right.

MR. SMITH: All right. Here's our recommendations. We request that the Secretary support additional base funding for applied specialty crop agricultural research at land grant universities and experiment stations and cooperative extension that can be used to address regional and local priorities driven by user needs.

And number two, we recommend that the Secretary review this decision, including hemp as a specialty crop, looking into potential native impacts to the existing specialty crops; in particular, the impacts on federal funds for research initiative grants.

If in any way it's determined that hemp will dilute the limited research funds, the Fruit and Vegetable Industry Advisory Committee recommends that the Secretary reclassify hemp or limit the crop from access to SCRI funds until additional money is appropriated.
Is there a third one there, three and four? The committee recommends that the Secretary review research grant eligibility criteria and process with the goal of increasing the opportunity for private organization.

We project -- project funding in public and private projects. Increase outreach and involvement of potential industry applicants to determine how future grants can be available for emerging technology, development and agriculture.

And number four, the committee recommends the Secretary increase grant funding available dedicated to the development of new labor saving technology and equipment development with the goal of recruiting agriculture, labor efficiency and demand.

CHAIR CARR: I have a question on number four.

MR. SMITH: Okay.

CHAIR CARR: So when you say increase grant funding available for, is that new funding,
or are you asking the Secretary to mandate a
portion of the current SCRI funding to go to
labor funding?

MR. SMITH: John.

MR. CHANDLER: Yeah, I think the
intent is not to be that specific, to allow the
discretion of the Secretary depending on funds
available or how it would best fit in with
existing programs. But the report is really
driven as addressing some of the labor concerns
by increasing some technology solutions.

CHAIR CARR: So my concern and serving
on the Dairy board where we reviewed these grants
and the process for the grants, it could be
interpreted by the Secretary that you're saying
that he should be dedicating a portion of these
funds.

That's my only concern. If you're
giving him a recommendation that he increases
funding, and the only funding for this research
right now is coming out of these SCRI grants,
then a response could be he says 10 percent of
these funds have to go to this technology.

That would be my concern. I don't disagree with the overall concept, but dedicating those funds or mandating those funds go to certain areas are a concern.

MR. CHANDLER: With that concern, would you have a suggested amendment that you think might keep the intent of allowing flexibility for the Secretary because I wouldn't want to preclude him from taking an action would benefit the entire industry?

MR. WINGARD: We could put it into that sentence, into that. We prefer that this funding be new funds.

MR. CHANDLER: Explore additional funding, if possible, or if available.

(Off-microphone comments.)

MR. CHANDLER: So what was it you said?

MR. WINGARD: We're prefer that this funding be -- we prefer that this be new funding.

MR. SIEVERT: How about provide new
funding?

MR. CHANDLER: What's that?

MR. SIEVERT: What about provide new funding, instead of increase funding? How about we recommend that new funding is available?

MR. CHANDLER: I'd hate for him to not be able to -- I mean, my goal would be to keep it as broad, allow him as much freedom of action as possible, but if you want to limit him to just new funding.

CHAIR CARR: Let me ask. Would you take out the word increase and just say prioritize?

MR. CHANDLER: Okay.

CHAIR CARR: Because increase means you should be going up. Prioritize just means they could make that -- so right now with the SCRI fundings, there's already a huge portion of that funding that goes to citrus right off the top that was mandated.

Okay. So now you're left with all the other commodities to feed for what's left after
you remove the citrus budget, which is $45 million. So at that point, the pot is only about 60 or 70. I don't remember the exact number. So after you do that. So mandating you increase funding to it but if you prioritize it, then at least that's what -- they'd go back and do that.

MS. HARPER-LARSEN: And each of these grants does already have established priorities. And when you apply, so we recommend prioritization. That will give a definitive to the Secretary and his office to just move this stuff up the chain.

MR. CHANDLER: That's fine. So you're happy?

CHAIR CARR: Yes.

MR. CHANDLER: Happy with that then? Okay. The committee recommends that the Secretary prioritize grant funding available dedicated to the development of new labor saving technology.

CHAIR CARR: Any other -- so this --

MR. LIPETZKY: Can we go back to
number 2? And this might be just making it more of a point of clarification. It looks like you've got the SCRI grant. So is there any consideration or discussion around the specialty crop block grant program component of this that involves specialty crops?

MS. HARPER-LARSEN: That's a good consideration.

MR. SMITH: We did talk a little bit about specialty crop block grants. And our thought was to leave the states alone in doing what they wanted to do with those rather than coming from a national perspective.

MR. LIPETZKY: And that helps because somebody who does administer that side of it, I was kind of wondering where that fine line would be for states dealing with hemp as well as that hemp direction coming from USDA.

MS. HARPER-LARSEN: But you guys do get prioritization directly from USDA. You can include that type of verbiage in this same thing as well for specialty block grant as well as SCRI
to prioritize.

MR. SMITH: We intentionally left out the state specialty crop block grants.

CHAIR CARR: So this is the full recommendations on research. If there's not any further discussion, we'll move to your next topic.

MR. SMITH: All right. On crop insurance, we make a recommendation that we urge the Secretary to make it a goal to ensure that fruit and vegetable farmers have access to coverage options that are with crop farmers for crop insurance generally works well, both in terms of effectiveness in addressing the perils unique to the crop and affordable premiums. A lot of this was your language, wasn't it?

CHAIR CARR: Any discussion on this?

Next topic.

MR. SMITH: The overspending off target. Recommendation one is that they should recognize that they can and will be off target. And therefore, reasonable tolerance should be
established, but first round application should be available for mild and coast sensitive plant.

That application should be limited to more desirable circumstances, such as lower temperature of humidity, pre-plant, preseason and other factors that would reduce the potential for moving off target. You want to do these individual?

CHAIR CARR: Well, yeah. We'll do this. So my only thing there is you're saying USDA, EPA. So again, a recommendation -- for us to put a recommendation for a motion is it needs to be a recommendation to the Secretary.

So my suggestion would be you should say the Secretary of Agriculture should work with EPA and FDA to recognize.

MR. SMITH: I don't have any problems with that.

CHAIR CARR: Again, it's going to come back because I think we're going to probably -- this is pretty shaky as well. A recommendation from this group is often -- Darrell, you correct
me if I'm wrong, but a recommendation from this committee has got to go to the Secretary. And a recommendation means he's got to come back and report to us what he's done with that recommendation. By simply saying that, we have no purview to recommend the EPA or FDA do anything, so --

MR. SMITH: That's correct.

CHAIR CARR: If your intent here is to start the conversation, then your request or your recommendation should be to the Secretary of Agriculture should do.

MR. SMITH: Should -- what word?

CHAIR CARR: Should work with EPA and FDA to recognize -- remember, your preamble before that talks about the science and all that. You're assuming that he buys into that.

MS. HARPER-LARSEN: And I'm sort of wondering why you're not asking for a mandated demand or sync or technology or something like that to be included into this pesticide manufacturer, like make it a way your molecules
don't drift.

(Simultaneous speaking.)

MR. SMITH: I don't think we want to get into label instructions about additives and all.

MR. WINGARD: I think that would be covered under desirable circumstances or more desirable circumstances.

CHAIR CARR: So are we good there?

MR. HUGHES: Yes. I was just adding -- it's a separate recommendation from the first one?

MR. SMITH: No.

MR. HUGHES: Okay. So then we add it back to --

MR. SMITH: All right. Yes.

MR. HUGHES: There we go.

MR. SMITH: All right. So we probably need to add language that we strongly recommend.

MR. WINGARD: Go back to that one. Something's changed. Something's not right. We started out with remedies for domestic produce
grown --

MR. SMITH: That's still two things.

MR. WINGARD: Yeah, but that's from trade.

(Off-microphone comments.)

MR. SMITH: All right. Back to number two. Sorry. I'm assuming we need to get the same language in here under the recommendation, that the Secretary recommend the Administration for extending the max of gene effects obtained or any new formulations for in crop use on soybeans and cotton not be renewed when the current registration expires.

In addition, we recommend that the EPA evaluate the performance of these products after the 2019 season and make an appropriate judgment about their use in 2020, even before the registration expires.

We also recommend that the USDA pesticide data program work with EPA to ensure that the dicamba registration is not renewed until such time when research can prove with
certainty that specialty crop producers would not be adversely affected by any form of off target movement, including volatility.

CHAIR CARR: So back up to number one. Two things. Where does the bio come from, and could that just be a question that determines, say this is good now. But most in turn by sensitive plant versus sensitive crop production because a sensitive plant could be anything. But if your concern is about protecting the other crop production, I get that.

MS. GORDON: Non labeled plants and non labeled crops.

MR. SMITH: I'll give you an example. I lost all my trees in my home farm. That's not a crop. So I would prefer to keep plant because it's not a crop.

(Off-microphone comments.)

MR. SMITH: The more mild kind of comes on Florida label language, also out of Washington and Oregon on some of these products, and certain counties in Michigan also have that.
CHAIR CARR: Any other questions? Do you have another recommendation under this one?

MR. SMITH: Yes.

CHAIR CARR: Any on this page before we move over to page 2?

MR. HUGHES: Well, yes. There's something that I want to make sure that you guys take into consideration, and that's Brenda Foos's comment yesterday about the pesticide program and that maybe that should be USDA should because of the Office of Pesticide -- Pest Management.

MS. GLEASON: Pest policy.

MR. HUGHES: Pest policy or something, and that was the first time I heard about that office. And I just wanted to make sure that you guys take that into consideration because that program may not achieve --

(Simultaneous speaking.)

MS. HARPER-LARSEN: That was the appropriate agency --

MR. SMITH: Right.

MS. HARPER-LARSEN: -- to use hard
data to work with the EPA.

MR. HUGHES: But as far as policy, but
our program is data based. It's not policy
based. And it seems like this is a policy
recommendation.

MS. GLEASON: Can we add the OPP, the
other office to that as well as USDA, PDP and
OPP, Office of Pesticide Policy, or whatever the
other office is called.

MR. HUGHES: You can do as you please.
I would just say that my suggestion would be to
make it broad so that if we are identifying the
wrong sub entity, the Secretary is able to send
it to a different USDA organization say like do
XYZ if he has the ability or whoever has the
ability to do that.

MR. SMITH: Well, her group actually
doesn't make the tolerances. That is EPA that
does that.

MS. GLEASON: So I think he's
suggesting that we just say that USDA should work
with the EPA.
MR. HUGHES: That is what Brenda's recommendation was, yes.

CHAIR CARR: It says the Secretary?

MS. GLEASON: No OPP, instead of naming a specific agency, just --

CHAIR CARR: Again, I would recommend you go with say the Secretary of Agriculture should do this and remove all the rest of that. Just make it consistent. Your recommendations are to the Secretary.

So that last sentence as of right now you say recommend that USDA Pesticide Data Program. It should be you recommend the Secretary of Agriculture could work with EPA to ensure.

MS. GLEASON: Right.

CHAIR CARR: Yes. That's all you're doing is inserting that.

MR. TISON: I had one thing on the word sensitive up there. Is that too broad or not explain enough in that you have something that's a plant that distinguished by the state of
the federal government by being an essential plant. Is that going to end up with somebody in a lawsuit or something? I know what you're trying to say, but are we being too broad there on that one?

MR. SMITH: I'm not sure how you would make that any different particular meaning.

MS. GLEASON: Non-target?

MS. GORDON: Yes, non-target type language.

MR. SMITH: I'd be okay with non-target for that in number one.

MR. HUGHES: Where is --

MR. WINGARD: That would be the tree on the side of the field then.

MR. SMITH: That's technically -- by label, that is -- it does matter. We can say sensitive, non-target plant.

MR. WINGARD: That might be the best yet.

MR. HUGHES: I would put a comma after sensitive. Any further on this page?
MS. GORDON: It doesn't read right.

MR. HUGHES: What did you say, Julie?

MS. GORDON: It does not read right, number two doesn't where you added that.

MR. HUGHES: This goes away.

MS. GORDON: If you're going to add that, don't we want to just take off the beginning that says the Secretary should because we're saying he should, then he shouldn't.

MR. HUGHES: Right. So I added that because I didn't know who --

MS. GORDON: Oh, okay. All right.

There you go.

MR. HUGHES: Give me one second. That needs a comma. Get rid of this red.

CHAIR CARR: All right. Next page.

MR. SMITH: This is switching gears a little bit. USDA, EPA, FDA and we may have to do the same language again -- to recognize the latest legacy materials that have long been prohibited and not been applied to fruit and vegetable crop are now being detected in very
small levels.

The presence of a legacy material should not be considered an adulterated product, nor should the producer be subject to regulatory action. So how do we need to start that out different, Darrell?

(Off-microphone comments.)

MR. SMITH: Okay. And then number four, we recommend the USDA use the same language, require biotech developers to seek the necessary reviews by USDA for seed genetics and EPA for the corresponding pesticide registration simultaneously resulting in a joint approval process and the two agencies increase collaboration for seed genetics and corresponding pesticides are approved.

We hope that a simultaneous and joint approval process will serve to facilitate discussion between the two agencies and prevent confusion among farmers.

And again, this originated from the situation where the seed was registered or was
approved two years before the product was
registered and kind of forced -- sort of forced
EPA's hands and farmers were using the product
before it was actually registered.

CHAIR CARR: So is the one agency EPA,
so it should be the Secretary should work with
EPA to require? Is that cleaner language now?

MR. SMITH: Maybe get rid of this.
This that was highlighted there. There you go.

CHAIR CARR: Everybody good with this?
All right, next one.

MR. SMITH: Okay. Again, this is
about label language. The USDA should work with
EPA -- again, we'll leave that other language in
there -- to encourage chemical manufacturers to
write their chemical labels in a uniform manner
so that producers can easily determine the
correct requirements of the final material.

And even the Secretary should work
together to establish crop groups that are
consistent with each other with industry
standards, terminology, and other accepted
practices.

And this comes from the problem of how crops are grouped together in different -- the same active ingredients are accrued on one label but not another label. Yeah.

MS. HARPER-LARSEN: So on Number 1, instead of word, encourage, I think it's appropriate to say require. There is --

MR. SMITH: I'd agree with that.

MS. HARPER-LARSEN: -- precedent already in workplace safety requirements under hazard communication for global harmonized symbols that mandated specific mandatory label writing to an extent. This would further strengthen the uniformity.

MR. SMITH: Yeah. I agree with that.

CHAIR CARR: Any other? And this is your last recommendation?

MR. SMITH: No, we've got --

CHAIR CARR: You only have one more?

MR. HUGHES: No, that's it.

MR. SMITH: That's it.
CHAIR CARR:  All right.

MR. SMITH:  So there's the four.

CHAIR CARR:  So your intent is, as all
the changes are made, you want to put this
forward to this group for approval as
recommendations from your working group on
production?

MR. SMITH:  I move we approve these
from our working group.

MR. WINGARD:  And I second.

CHAIR CARR:  We have a motion and a
second. Any discussion?

(No audible response.)

CHAIR CARR:  All those in favor of
approving these recommendations please say aye?

(Chorus of ayes.)

CHAIR CARR:  Any opposed?

(No audible response.)

CHAIR CARR:  Very good. Well, we're
on time, correct? Going to Labor next.

(Off-microphone comments.)

MR. ERICKSON:  Okay. I'm not going to
read through all the extra stuff. I'm going to
go straight to our recommendations which are here
in bold. Number 1, the fruit and vegetable
industry has identified that access to labor --

MR. WINGARD: Can you zoom in just a
little bit? Right there, a little bit better.
Thank you.

MR. ERICKSON: There's something wrong
with this thing.

(Off-microphone comments.)

MR. ERICKSON: All right. Number 1,
the fruit and vegetable industry has identified
that access to labor is our most critical need.
And we recognize the Secretary's commitment to
solving the agricultural labor crisis.

We recommend that the Secretary work
with Congress and the administration for
legislative agricultural immigration reforms.
These reforms should allow the industry to retain
the current workforce in light of their ongoing
critical contributions to the supply chain as
well as creating a new future flow of labor that
makes our workforce affordable, predictable, and sustainable.

Number 2, we request the Secretary form a multi-agency task force including, but not limited to, USDA and Department of Labor, as well as a nationwide cross section of industry stakeholders with the primary charge of studying the methodology behind and impact of AEWR and to seek alternative solutions for wage determination.

Number 3, considering that Congress has been unable to pass agricultural labor reforms, combined with the expedient rate at which the agricultural workforce is dwindling, we request collaboration between the Secretary of Agriculture and the Administration, in particular the Secretary of Labor, to broaden the interpretation of temporary work to less than one year, thereby allowing more agriculture companies to participate in the program.

Number 4, we recommend that USDA research methods to make the farm labor survey
more robust and to work with the Secretary of Labor to ensure that the refined data which is collected is utilized by DOL to support agricultural employers and workers.

Number 5, we request that USDA work with necessary agencies to amend the rule related to 51 percent or more of product coming from outside the H-2A farm applicant with the understanding that the industry has undergone significant changes, and that many growers also package shipped product for other growers in their region.

MS. HARPER-LARSEN: Before you go on -

MR. ERICKSON: Yes?

MS. HARPER-LARSEN: Can you remove in their region? Because we have to recognize that these are packed for people, and that regionality is ---

MR. ERICKSON: Loosely defined.

MS. HARPER-LARSEN: Yes.

MR. ERICKSON: Okay. Number 6, we
request the Secretary collaborate with the Secretary of Labor to create meaningful impact for employers utilizing the H-2A program by developing a program to identify preferred employers who possess solid history in the program for an expedited and more streamlined application process.

And finally, this Committee commends the Secretary of Agriculture and his team for their involvement in the development of DOL's proposed H-2A modernization rule, July 26, 2019, which offers significant reform to the application process and, if enacted, should benefit all employers.

Furthermore, we request the Secretary's continued engagement in this process, compelling stakeholders to submit comments and ensure these new rules are published as soon as possible.

CHAIR CARR: Very good. Much to approve.

(Laughter.)
CHAIR CARR: So when we say AEWR, let's go ahead and define that a little bit better.

MR. ERICKSON: Okay.

CHAIR CARR: So it's the methodology behind the current H-2A program wage rate.

MR. ERICKSON: Current H-2A wage rate?

CHAIR CARR: And then go ahead and type out adverse effect wage rate -- adverse wage effect rate.

MS. GORDON: And its impact.

(Off-microphone comments.)

MS. GORDON: Can you go back up to the one where you --

MR. ERICKSON: Well, we're not through here.

(Off-microphone comments.)

CHAIR CARR: So, Bret, one thing, it was supposed to look at the effect of that wage rate and the ability -- or, really the sustainability of agriculture.

The whole premise was is for them to
study the wage rate and look at the effect that it is having, or will have, on the industry, based on the current inflationary period we're in, and then seek alternatives there.

So I don't know how you want to say that, but that's your -- and its impact to --- you're missing after it, and I thought you had it before.

MR. ERICKSON: I probably did.

CHAIR CARR: You could just say to the sustainability of production agriculture.

MR. CHANDLER: At the very end, right?

CHAIR CARR: What?

MR. CHANDLER: At the very end after wage determination.

MR. ERICKSON: Okay. Is that right?

CHAIR CARR: So when you're saying --- back up here a second. You're asking him for with the primary charge, to study the rate and methodology and --

MR. ERICKSON: Hold on, hold on, I'm not moving that fast.
CHAIR CARR: I was just saying what you had up there. To study the methodology on the current H-2A adverse wage rate and its impact to the sustainability of production agriculture.

MR. ERICKSON: And to seek alternative solutions for wage determination?

CHAIR CARR: That are clear and predictable. They are clear and predictable.

(Off-microphone comments.)

CHAIR CARR: Somebody want to go back to Number 1? I think that was Kelly.

(Off-microphone comments.)

MS. GORDON: It was me. The very first sentence says, it says that these are our most critical needs. The fruit and vegetable industry has identified that labor is our most critical need.

It sounds like out of all the things we're doing here, this is our most critical need, to me. So are we identifying that labor is the one --- can we say, like, it's a priority, instead the most critical need?
MR. HUGHES: Or among our most critical needs?

MS. GORDON: Yes.

PARTICIPANT: I don't have a problem with that.

MR. ERICKSON: I would say labor is -- I mean, a lot of us, our highest priority because the fact --

CHAIR CARR: Well, if we don't solve our labor problem, we're not going to have an industry.

MS. GORDON: All right, if that's the consensus.

MS. GLEASON: I mean, it's not a problem for my small farmers. But I see where it's a problem for the industry.

MR. ERICKSON: Must have just happened.

(Laughter.)

MR. HUGHES: Can we go to the very last one. I want to read that to see if I've got the right insights.
MR. ERICKSON: Which?

MR. HUGHES: The very last one, the last one above the ---

(Off-microphone comments.)

MR. HUGHES: And so my only comment is, I don't know what that recommendation is for, because the Secretary will always do that. I mean, when you post rules and ask for public comment, and then there are regulations that require comments to be published, then there are rules you have to follow. And so that's the only thing that I would say about that. And I don't know if that says you were asking him something.

CHAIR CARR: Yes, we're asking him to work with industries like United and compelling them to get stakeholders to make a --

There were only 61 comments filed in the last rotation. This one is going to be a lot more controversial. So we need the Secretary to engage with stakeholders, encouraging their membership to supply comments.
PARTICIPANT: Is encouraging a better word than compelling?

CHAIR CARR: I'm fine with that.

PARTICIPANT: Compelling a little mandatory.

MR. BOWMAN: Mr. Chair, another comment, it's a little --- you know, there's a push by some people in Congress right now to bring in the pool of undocumented workers that are currently in the U.S. into the H-2A program, which I think is a very, very bad idea.

And I don't know, if -- since it's not a bill yet, if we would consider making a statement on that. Substituting the H-2A workforce with undocumented domestic workers for five years at a time is not the solution to our labor needs.

CHAIR CARR: It's come to me that the Secretary supported that the last two years already.

MR. BOWMAN: I have a different opinion now. I don't need to feel like I'm at fault
there.

MS. HARPER-LARSEN: What about verbalizing a more streamlined process to take undocumented agricultural workers forward with citizenship?

CHAIR CARR: We already have that one in. We have that. I understand what you're saying. And I would like to discuss that probably offline.

MR. BOWMAN: I agree.

(Laughter.)

PARTICIPANT: I'm okay with that.

CHAIR CARR: I don't think the industry's going to support that.

PARTICIPANT: I don't support that one either. But I do support their ability to return home and come back later if they so choose.

MR. BOWMAN: I think the Congressman from Florida is bringing a bill up right now.

CHAIR CARR: Yeah.

MR. WINGARD: I think that's one of the most -- that is one part of the issue that has
prohibited us from moving forward on any solution. So it's a very divisive issue. And I understand what you're saying and agree with you, but I think we don't even need to get into that, just because of the --- it's a lightning rod.

I want to go to five if we could. This is Charles Wingard, by the way. Don't we want to not say we request the USDA, but we recommend to the Secretary?

PARTICIPANT: Same language.

MR. WINGARD: Well, whatever the similar language is to use with the Secretary.

CHAIR CARR: Darrell, you've got to clean all that up if we missed that somewhere where we've said the USDA should or something.

MR. HUGHES: Do you want to change it all to we request the Secretary?

CHAIR CARR: Or we recommend to the Secretary.

MR. HUGHES: As long as you guys will give me that blanket authority to update,
MS. HARPER-LARSEN: Do you need a motion on that?

MR. HUGHES: I don't think so.

CHAIR CARR: No, consensus. We're voting to approve these, but since we're --- he's going to take these and ---

PARTICIPANT: And fine tune them.

(Simultaneous speaking.)

MR. HUGHES: Yeah, exactly.

CHAIR CARR: We have 30 to 60 days, for the record, to clear up our minutes from today. So those changes need to go ---

MR. HUGHES: It's 90 days.

CHAIR CARR: Up to 90 days.

MR. TISON: I remember seeing the word we. I thought I said Chairman of the group.

(Laughter.)

CHAIR CARR: Chairman of the group is the only one who participates.

MR. HUGHES: And since we're talking about that, one of the things that I will have to work with the leads on, does the Chairman want to
know? Like, all of you in the findings will have
to retool or refine that language. So, I mean,
we're approving the recommendations for this bill,
like the little finishing touches that need to be
executed.

MS. GLEASON: Can you go back to three?
I am not sure how this works, because I don't --
I mean, it's not an issue with our small scale
producers.

But if it's expanding temporary work to
almost a year, and folks then have back to back
contracts where they are in the country
indefinitely, then I have a small issue with not
providing a path to citizenship for those folks.

CHAIR CARR: So first of all, being in
the H-2A program, they have to have no intent to
immigrate. So you have to take that off.

Then the second part of it is mandated
by current law, they have to serve so many days
out of the country. Even if the employer does a
back to back contract, that worker, at some point,
will have to take a break. It's usually 60 days
out of every year --

MS. GLEASON: Okay.

CHAIR CARR: -- that they can't come back. So the worker wouldn't be back to back, but you allow the employer to have a group of workers. We started using this language in the industry now called pooling of workers.

And so one way Gary -- one way Gary could get around this is Gary would have to accept that they would not have a continual worker for three years, but they could take a workforce and work them for nine months, and then bring in another workforce. And most of the industry did the same thing.

And, you know, then they could have -- they would be able to have employees, they just wouldn't be the same employees. But at least they'd have access to workers. Now that's broad strokes.

MS. GLEASON: Okay.

CHAIR CARR: But in this program, no worker coming in can ever have the ability to get
in the line for citizenship. They can go through
the regular process, but it wouldn't be an
entitlement group, being in this program.

MS. GLEASON: Okay.

(Off-microphone comments.)

CHAIR CARR: A lot of times, people get
caught up in current workforce versus a guest
worker. But then guest workers, when they leave
their families, their wives, their children, they
don't come in and stay home. They've reached
their home. It's just the worker coming here
because of the work.

MS. GLEASON: Thank you.

CHAIR CARR: Any other questions? I
know there's a lot of language up there. You read
the ones with -- do you want to move those forward
as --

MR. ERICKSON: Yeah, so do we have a
motion to approve these?

MS. ELLOR: I'll make that motion.

MR. TALBOTT: Second.

CHAIR CARR: Any discussion?
(No audible response.)

CHAIR CARR: All those in favor please say aye.

(Chorus of ayes.)

CHAIR CARR: Opposed?

(No audible response.)

CHAIR CARR: Very good. Moving on to the last group.

(Off-microphone comments.)

MS. HARPER-LARSEN: Is that good? Do you want me to bring it up more?

CHAIR CARR: Please.

MS. HARPER-LARSEN: All right. Here's an issue with our workgroup objective statement. This was not modified at all during our last subgroup meeting. Okay, moving forward, I'm going to skip over the members of the group.

MR. ERICKSON: I have a quick question.

MS. HARPER-LARSEN: Yes?

MR. ERICKSON: Before you start, did you guys address all of the items that Jennifer had suggested yesterday?
MS. HARPER-LARSEN: We did.

MR. ERICKSON: Very well.

MS. HARPER-LARSEN: And with the inclusion of an additional item that you guys will see at the very bottom.

MR. ERICKSON: Wonderful.

MS. HARPER-LARSEN: Thank you very much. That's why it took us a bit longer, because we had that dialogue with her.

MR. ERICKSON: Yeah, great.

MS. HARPER-LARSEN: And we also had two of our tech experts at our table as well.

MR. ERICKSON: Perfect.

MS. HARPER-LARSEN: Okay. So you will see that we have combined some based on that dialogue. We wish to protect producers and packers from undue economic burden related to increased microbiological testing requirements.

We would like the USDA to collaborate with the FDA to obtain funding for -- on farm water sampling education outreach, research projects, financial assistance for small and very
small operations, a development of online produce safety rule grower training programs in English and Spanish to meet FSMA requirements.

But we encourage the FDA to continue to work with growers to develop science-based water microbiological testing standards in a timely manner. We encourage the re-evaluation of these agricultural water testing requirements annually.

So we basically took everything that relates to water, slapped it into one bullet point.

MR. HUGHES: So here’s a quick question for you. With the current setup of this type of recommendation, it wouldn’t allow me to use the -- - we request the Secretary of Agriculture, blah, blah, blah. And so it seems like it fits better at the start of the second sentence. And so I just want to highlight that so maybe something gets ---

CHAIR CARR: In regards to the second bullet point, we ask the Secretary --- can we just always say instead of USDA, so it says we’d like
USDA, and then data you suggested. Can we just say we recommend or we request the Secretary of Agriculture ---

MR. HUGHES: Protect producers, blah, blah, blah, okay.

MS. HARPER-LARSEN: Okay. So you would like --

(Simultaneous speaking.)

CHAIR CARR: -- words to fit that later. You give him the ---

MR. HUGHES: I just wanted to make sure that was okay to change back, yeah.

MS. HARPER-LARSEN: Yes.

CHAIR CARR: That is our tip.

MS. HARPER-LARSEN: We want to keep that consistency flowing. All right, are we good to move on to the next one?

(No audible response.)

MS. HARPER-LARSEN: All right. We ask that Secretary Purdue work with the FDA to establish a FSMA produce safety rule and preventive controls for human food, fruit, and
vegetable-mixed type use operation -- that was the
inclusion from Jennifer, Regional Grower
Stakeholder Advisory Boards for collaboration, and
to seek in programs.

MR. SMITH: I think we should take
Purdue out of that and just ---

CHAIR CARR: We would change all of
that to read always the Secretary ---

(Off-microphone comments.)

MS. HARPER-LARSEN: Are we good there?

PARTICIPANT: There was difference for
a second --

MR. HUGHES: I'll fix all that. You
don't have ---

MS. HARPER-LARSEN: Okay. Next, we
encourage development of a FSMA produce safety
rule, preventive controls for human food as
warrants our verification program, interactive
decision tree to assist entities in determining
which rules they must comply with and when. Yes?

CHAIR CARR: So again, do you say we
encourage, but we've got ---
MS. HARPER-LARSEN: We ask the Secretary to.

CHAIR CARR: Okay.

MS. HARPER-LARSEN: Blanket statement.

Again, the next --

CHAIR CARR: So let me just, because now he doesn't see any of the language to that. And you don't have USDA up there. So can we also --- the way I understand it, if we say we encourage, that you're going to say we recommend that the Secretary of Agriculture?

MR. HUGHES: So whenever there's encourage?

CHAIR CARR: So right now, there is no mention of USDA in either one of those two bullet points.

MR. HUGHES: Right.

CHAIR CARR: But that is the intent.

MR. HUGHES: Right. So I will put there we encourage the Secretary ---

CHAIR CARR: No, we recommend.

MR. HUGHES: We recommend the Secretary
develop --

CHAIR CARR: Yes.

MR. HUGHES: Yeah.

MS. HARPER-LARSEN: And you can wordsmith it.

MS. SKELTON: Can I interrupt? You may want to encourage the Secretary to work with FDA to develop.

CHAIR CARR: Yeah.

MS. SKELTON: It's their regs.

CHAIR CARR: Thank you. Would that be the same below two.

MS. SKELTON: Same verbiage, yes.

MS. HARPER-LARSEN: Same verbiage, we encourage development of FSMA, foreign supplier verification program information modules, and this is a new addition in multiple languages, that are prioritized on import volume.

So basically we saw, beyond English and Spanish, we also had China and Vietnam on the top importers list. And that needs to be developed.

These modules should focus on educating
distributors, wholesalers, cross-docking facilities and aggregation entities.

CHAIR CARR: Any discussion?

(No audible response.)

CHAIR CARR: Next page.

MS. HARPER-LARSEN: Okay. We support providing increased funding on an annual basis for personnel marketing and education outreach for the USDA Harmonized GAP Plus audit program in an effort to more successfully market GFSI technical equivalents and FSMA recognition with producers and packers.

New language -- so we sort of split up this, we strongly encourage the Secretary's office to engage members of the buying community, including retailers, food service entities, and consumer brands in discussions relating to GFSI technical equivalents. Any discussion?

(No audible response.)

MS. HARPER-LARSEN: Next, we encourage --

MR. WILKINS: I've got a question.
MS. HARPER-LARSEN: Oh.

MR. WILKINS: I don't like the word buying.

PARTICIPANT: Call it procurement?

MS. HARPER-LARSEN: Okay. Procurement community, procurers?

MR. WILKINS: I think you could take out the buying community, and just say including retailers and food service.

MS. HARPER-LARSEN: Engage retailers, food service entities, and consumer brands in discussions for writing the GFSI technical equivalents? Charles?

MR. WINGARD: I agree with that.

MR. SIEVERT: How about distribution chain, something like that, and then offer some examples?

CHAIR CARR: Would it be on farm supply chain -- beyond the farm supply chain?

MR. SIEVERT: Well, that whole bottom part is about the farm.

CHAIR CARR: I mean, that's --
MR. SIEVERT: That's why the buying part was in there. Something about buying food, something about the purchasers.

MR. WILKINS: But we're trying to get retailers and food service to understand Gap Plus+.

MS. HARPER-LARSEN: Yes.

MR. WILKINS: And so it is retailers and food service that needs to understand that.

MS. HARPER-LARSEN: It's major procurement decision makers.

CHAIR CARR: But that's beyond retailers.

MR. WILKINS: Well, it should be ---

CHAIR CARR: Right. I mean, you have wholesalers out there that don't ---

MR. WINGARD: But shouldn't it be the whole supply chain? Shouldn't it be those that transport it too? Don't we want them to understand this? Anybody who's got control or custody of the product so they ---

MS. HARPER-LARSEN: Not for the audit
purposes. You can't audit GFSI. You can't audit
harmonized Gap Plus truckers. You can't audit.
That's not applicable to that audit.

CHAIR CARR: Yeah, this is not what
this is saying. This is saying that you want the
supply chain or the procurement chain part of it
to recognize this program as being --

MS. HARPER-LARSEN: Like this? We
strongly encourage the Secretary's office to
engage all foreign procurers, like retailers, food
service entities, and consumer brands in
discussions related to GFSI technical equivalence?

CHAIR CARR: Is that okay?

MR. WILKINS: So the retailers are
talking about if they don't buy nothing they have
to go to a market to replenish. And I think
that's a very strong part of it. I don't
understand the consumer brands.

MS. HARPER-LARSEN: You have recognized
consumer brands that are major fresh fruit and
produce brands, Dole, Dandy, Fresh Express, that
are known consumer identifiable, Green Giant,
brands who currently have provisions not to accept USDA Harmonized Gap, because it's not benchmarked. And the reason for that is simply semantics.

MR. WINGARD: So to his point, what makes Dole, which is what you listed as a brand, what makes them not a procurer?

MR. WILKINS: They're a source, not a procurer.

MS. HARPER-LARSEN: They are also a procurer, straight up.

CHAIR CARR: Procurer, yeah, they are.

MS. HARPER-LARSEN: They're a source as well, sometimes.

MR. WINGARD: Okay, I get that.

MR. ZEA: If you said supply chain, you're going to have to really -- to make clear what you're talking about ---

MS. HARPER-LARSEN: If we just say supply chain, and we give them directive to say, go to the major retailers, go to your major food service entities, and go to your major consumer brands, you're not going to ---
MR. ZEA: But say that then in parens and offer some examples, right?

MS. HARPER-LARSEN: So to engage major retailers, to take out all foreign procurers or --

CHAIR CARR: How about try it this way. Just say encourage the supply chain, like retailers, food service entities and --- we want the whole supply chain to recognize this equivalent.

MR. WILKINS: And these are such as?

MS. HARPER-LARSEN: So go back up to the previous statement?

CHAIR CARR: No, just right there in front of your cursor.

MS. HARPER-LARSEN: Okay.

CHAIR CARR: Take out of farm produce, and just say encourage the supply chain, i.e. retailers, food service ---

MR. WILKINS: Such as?

MS. HARPER-LARSEN: Anybody else that I'm missing there?
CHAIR CARR: So supply chain incorporates it all. You've highlighted these three segments.

MR. WILKINS: I think that's pretty good.

CHAIR CARR: Kiley, would that be your intent?

MS. HARPER-LARSEN: Yes.

CHAIR CARR: Okay.

MS. HARPER-LARSEN: But what we need is we need leadership from the Secretary's office to open dialogue with these entities. We're not just asking for additional funding towards the harmonized program for education throughout our stakeholders. We need that dialogue.

MR. WINGARD: So you think you should take out such as and put to include. That points the finger.

MR. WILKINS: Good point.

MS. HARPER-LARSEN: Shall I read it again?

CHAIR CARR: Not right now.
MS. HARPER-LARSEN: Okay. Are we good?

(No audible response.)

MS. HARPER-LARSEN: Excellent. All right. We encourage the USDA's regular collaboration with the FDA to share technical expertise and data so as to inform FDA's implementation plan -- that's specific verbiage, by the way -- to ensure that foreign supply is held to the same standards as domestic supply in regards to all aspects for FSMA compliance when we are giving specific examples of surveying Hepatitis A, contaminated Egyptian strawberries, and Chinese peaches and squashes. We just basically strengthened our original bullet point to give some additional examples. And it lends credence to your trade.

CHAIR CARR: Comment?

MS. SKELTON: Yeah, now that I see that on the screen -- this is Leanne Skelton, now that I see that on the screen, I think we're mixing things up here.

I've got FSMA compliance. That's what
you're angling for, is that everybody is uniformly protected by compliance. That's what you want, I think. And I don't mind the examples, but the examples aren't, because of FSMA compliance, or non-compliance. That's USDA's purchasing programs. You can do what you want, but you might be mixing things up a little bit.

MR. WILKINS: So should that be USDA instead of FSMA?

MS. SKELTON: Well, I think what, if I remember how the group was talking about this, they wanted to ensure that, regardless of the source of product, it was to have equal, uniform, consistent compliance activity related to those models.

MR. WILKINS: So we might say FSMA and USDA compliance and give an example.

CHAIR CARR: I'm sorry, I don't even understand how the two examples work into that.

MS. HARPER-LARSEN: Okay, all right. So I can get in with the Chinese peaches in school lunches, because that was just against USDA
procurement issues.

But when we talk about FSMA compliance, those growers and the importers did not meet what we currently have for FSMA compliance. And they brought in adulterated products.

MS. SKELTON: Did they have to meet it? Were they of the size that had to meet it yet?

MS. HARPER-LARSEN: I don't think they were under the requirement --

MS. SKELTON: Yeah.

MS. HARPER-LARSEN: -- currently. It was all due to the date.

MS. SKELTON: Might you be as well served to just strike the examples?

(Off-microphone comments.)

MS. HARPER-LARSEN: As it reads now? We spent some time trying to come up with an accurate flow that would represent a very robust segment.

(Off-microphone comments.)

MR. WILKINS: I think that's what you're trying to say.
MS. HARPER-LARSEN: And so the FDA does have a specific implementation plan. And we need USDA's technical experts and our data to have a seat at the table for that, okay? And it brings in our objective to make sure that foreign supply and domestic supply are held to the same standards.

All right. Our next one is, we encourage the USDA to engage with the FDA regarding prioritization of FSBP inspections related to produce that have caused outbreaks in the United States.

You will notice yesterday that Jennifer said the inspections are not on the produce, it's on the importer and the documentation. So what we tried to do was take that information and craft it into something that was palatable.

So prioritization of documentation inspections are people who are having trouble with the produce causing outbreaks. Are we good there?

(No audible response.)

MS. HARPER-LARSEN: Okay. We encourage
the USDA to work with the FDA and CDC to hold town
hall-style meetings to improve agency
understanding. Agency was changed from
regulatory.

A growing, harvesting, packing, and
traceability process is prior to issuing
additional fruit and vegetable consumer
advisories. Previous consumer advisories have
temporarily and sometimes permanently disrupted
the market for some fresh fruit and vegetables.
And we gave examples that we have documented
economic evidence of market disruption, at
consumer request.

We did remove all of those bullet
points. The seeking input, commentary, although
several of us maybe were not involved in that,
Leanne did confirm that there was input sought.
Maybe it just wasn't broad enough as it should
have been.

MR. HUGHES: I have a question for you.

So the other three workgroups have some type of
overview or finding statement that will accompany
a recommendation or a position statement so that it informs various leadership up the chain.

Do you plan to, which it doesn't have to be robust, but do you plan to include some type of background workgroup finding that adds some meat that explains why you've reached that recommendation?

MS. HARPER-LARSEN: I don't see any reason why we can't -- I can't provide that to the group for review.

CHAIR CARR: But in that particular one, you actually have it at the bottom. It's just where it's at. But you discuss at the end why previous consumer advisors have temporarily altered markets, so you're ---

MR. WILKINS: But not only the market.

MR. HUGHES: I'm not just specifically talking about that one. I'm just talking about in general, that some of them, it's just a recommendation. And, I mean, I can easily see certain leaders saying, well, where is this coming from? Did they say anything else?
MS. HARPER-LARSEN: Because we're not there to convey it.

MR. HUGHES: Right.

MR. WILKINS: So I would like for us to somehow incorporate the pain that a restaurant, or retailer, or anyone that has the product in their supply chain, from PC to stores, or distribution to restaurants, they say, well you have to dump that product. So it's not just the market, but it's everything in the supply chain is damaged in some sense.

MS. HARPER-LARSEN: Consumer supply chain?

MR. WILKINS: Well, it just doesn't address the fact that, if we have any of those examples in our supply chain, and there's an advisory ---

MR. SIEVERT: Should it be up on the report, where it says previous consumer advisories?

MR. WILKINS: Yeah.

MR. SIEVERT: The financial?
MR. WILKINS: Yeah, I may do that.

There may be something there that I tried that
that causes financial strain on customers that
have advised -- I don't know. We just have ate
millions of dollars -- ate's a bad word. We've
lost millions of dollars on these advisories.

MS. HARPER-LARSEN: When they haven't
been found or when they have been found?

MR. WILKINS: Both.

MR. WINGARD: Well, to Tommy's point,
when the Romaine advisory came out from major
retailers that kale listed in their computer
system in the same category as Romaine.

So we had to pick up the kale that we
already had in their warehouse. And we had to eat
it. And it was bag of kale salad that was their
label. So it's not like I can sell it down the
street. But we lost, like, 10,000 cases.

MR. ELY: So what if -- after we had,
you know, we had created an economic hardship in
this industry.

PARTICIPANT: Yeah, there you go, and
temporarily.

(Off-microphone comments.)

MR. ELY: That is the ---

MS. HARPER-LARSEN: All right. So

previous consumer advisories have created economic

hardships and temporarily and sometimes

permanently disrupted the market and consumer

supply.

It's actually not just the consumer

supply chain, it's consumer demand.

MR. SIEVERT: And maybe that's ---

MS. HARPER-LARSEN: Consumer supply chain incompetence?

MR. SIEVERT: How about consumer confidence?

PARTICIPANT: Right, confidence is a good --

PARTICIPANT: I like confidence.

MR. WILKINS: I'd take supply chain out and put confidence.

MS. HARPER-LARSEN: And consumer confidence for consumption of some fresh fruit and
vegetables.

Is there another example that needs to be listed there? I just looked at majors and discussed it with my workgroup committee. Is there something else? I mean, should we stick in some kale in there, since you lost 10,000 cases?

MR. WINGARD: No, because the kale ---

(Simultaneous speaking.)

MR. SMITH: Those will resonate. It's not just fresh. We lost tomato sales with the bogus tomato problem in 2008 in canned.

PARTICIPANT: So fresh and processed.

MR. SMITH: Fresh and processed.

MR. WINGARD: I'd put canned up beside the fresh, fresh and canned.

MR. HUGHES: For those who haven't checked out, it's 11:30. But don't all leave. Keep working. Just a reminder.

MS. HARPER-LARSEN: All right, how does this read now?

MS. SKELTON: Change your first canned to processed.
PARTICIPANT: Yeah, I'd say that the process ---

(Off-microphone comments.)

MS. HARPER-LARSEN: All right. Are we good to move forward?

(No audible response.)

MS. HARPER-LARSEN: All right. We encourage the USDA to work with the FDA and CDC to coordinate a fresh fruit and vegetable stakeholder-driven workgroup focused on improving communication and advising during the consumer advisory process and other related activities.

So we took out a lot of wordiness, made it more broad, and we also referenced what had been provided by United and PMA in direct discussion under Appendix D that has been submitted for review to the FDA in relation to developing a more robust collaborative effort.

What was lacking from United and PMA's Appendix D document was the fact that USDA and smaller stakeholders did not have a seat at the table. And so in our bullet point we wanted to
make sure that USDA was recognized for their
contribution in that process and that we had a
more robust, broad, stakeholder group represented,
rather than just larger membership organizations.

Last, and this is a new bullet point,
we ask that the Secretary's office seek
appropriate annual funding streams for FSMA-
related training initiatives, in specific, the
Produce Safety Alliance, which is the produce
safety rural grower training, which is federally
mandated for all entities that are not applicable
to the Tester Amendment that grow, harvest, and
sometimes pack their own product.

We don't have appropriate annual
funding streams. It's specifically, right now, on
a time-limited grant. So we have a law, and we
don't have the education outreach to enact it. We
essentially have a defunct domestic supply
initiative. So therefore, that's the new bullet
point.

MR. WINGARD: Are you trying to get
money, you want money every year here? You're
saying recurring funding streams.

   MS. HARPER-LARSEN: What I think we
   need to look at is, like, a line item specific,
   that when we say recurring funding streams, right
   now what we would be dealing with is grant, versus
   a line item on the budget. So is it recurring, or
   is it an annual line item?

   MR. HUGHES: Yes.

   MS. HARPER-LARSEN: It's an annual line
   item, correct?

   MR. HUGHES: It is an appropriations --
   and appropriations line item, right?

   MS. SKELTON: It would end up as an
   appropriation, yes.

   MS. HARPER-LARSEN: So that's the, I
   mean, it's super important when we're considering
   this verbiage that we ask for recurring. They're
   going to take additional -- just keep funding that
   grant. And then when they decide to slice that
   grant up, well, bye-bye.

   CHAIR CARR: Technically they can't
   count your grant as recurring funding. But if you
say the word recurring, that may speak line item funding.

MS. HARPER-LARSEN: Because it's not -- no, because it's not the original funding source? You can't recur something that hasn't happened yet.

MS. GLEASON: Can you just add recurring line item funding?

MS. HARPER-LARSEN: Or appropriations?

CHAIR CARR: And take out funding.

MS. SKELTON: Change your first appropriate to adequate.

MS. HARPER-LARSEN: We've got really good technical assistance for our committee, don't we? Yes, uh-huh.

MS. HARPER-LARSEN: So we ask that the Secretary's office seek adequate, recurring, line item appropriations for FSMA-related training initiatives. All right, do we have it?

CHAIR CARR: Any other questions or --- so you're ready to put this forward?

MS. HARPER-LARSEN: Yes.
CHAIR CARR: May I have a motion?

MR. SIEVERT: Motion.

CHAIR CARR: Have a second?

MR. ELY: Second.

CHAIR CARR: Any discussion?

(No audible response.)

CHAIR CARR: All those in favor, please say aye.

(Chorus of ayes.)

CHAIR CARR: Those opposed?

(No audible response.)

CHAIR CARR: Well, very good. So our work on recommendations at this level is done. Darrell, for housekeeping, you're going to type these up, send them out to the whole group, one last time to the specific committee leads to look at it.

And then, again, we're going to ask everybody to review these one more time and come back. But how they have to handle that process?

Do we just have their acknowledgment?

MR. HUGHES: Yeah, similar to how we do
the minutes, since you guys have already approved
them at a high level here, just going through and
looking at the two versions to make sure they're
consistent, and there has been nothing deleted, or
so on and so forth.

CHAIR CARR: And let me also go and add
that so, beyond that, if there's something else
that needs to come up during this next -- after
the end of September, we can make further -- you
can work within your working groups and bring
something else forward. We'll get it to Darrell,
and get it out to all of us. And we can bring
other recommendations. This doesn't have to be
the end of the process --

MR. HUGHES: Right.

CHAIR CARR: -- is what I'm saying.

Things may emerge in that time period.

MR. HUGHES: Yeah. And, I mean, we
won't be able to meet in person again, but we will
be able to revise which, I think, most of you are
comfortable doing at this point.

CHAIR CARR: Well, before we leave, I
want to thank all the committee leads again for
taking the charge of working with the your groups
over the summer, getting these done, fantastic
process today. Everybody's gone through it,
everybody's gotten their input, so again ---

(Simultaneous speaking.)

MR. HUGHES: When I read through the
actual recommendations in the position statements,
it's the expectation that the overviews, the
workgroup findings, paragraphs, that also needs to
finalized by then. And I'm looking for a
complete, refined, package.

MR. WILKINS: I'm sorry, so ---

(Simultaneous speaking.)

MR. WILKINS: -- there will be more in
there that I think might be changing a little bit.
You said you might change a little bit of your ---

MS. HARPER-LARSEN: The reason why we
arrived at that recommendation.

MR. HUGHES: Straight to that whole
section on protecting the farmer, that background
section needs to be 100 percent revamped.
PARTICIPANT: Right.

(Simultaneous speaking.)

MR. HUGHES: And so, I mean, I don't mind moving for the refined recommendations in position statements for clearing. But then the same thing will have to happen for the meat that supports those recommendations.

So it's up to you. Do you want the workgroup leads to get their refined workgroup finding statements that -- the background statement's completed?

CHAIR CARR: Yes, I want to get -- let me get those completed so that one time, one final package can go back out to everybody.

MR. HUGHES: All right. So can we -- what timeframe would you like those refined paragraphs to be submitted to me?

CHAIR CARR: Is two weeks good enough for the working group leads?

(Off-microphone comments.)

MR. WILKINS: Well, that's two weeks.

MS. HARPER-LARSEN: I want to do that
in September.

PARTICIPANT: Let's do two weeks.

MR. WILKINS: August 30th is Friday, that's two weeks and a day.

CHAIR CARR: Kiley, you're a working group leader. If you can't do that timeframe, tell us what you can do.

MS. HARPER-LARSEN: I can do the following Friday.

CHAIR CARR: So the goal would be to have all the findings to you within two weeks and you to have those back to us in a week or ---

MR. HUGHES: Yeah.

CHAIR CARR: -- after that?

MR. HUGHES: Yeah, within a week after that.

CHAIR CARR: So sometime after Labor Day we should all see a final product. And again, if there are substantive changes to that product, then if there's a wordsmith or something like that, you can work with Darrell directly on that.

But subsequently, we have to come back together as
a group to make any changes to that.

    All right, so we've gone through the
committee leads, and we've gone through all this.
Are there any other topics that need to come up to
be discussed?

    MR. HUGHES: I had on the agenda to
schedule follow-up meetings. But I think I'll
table that until we get all the material in.
That's it, yeah. Thank you all.

    CHAIR CARR: So what else?

    MS. HARPER-LARSEN: I do have one
thing. Based on the discussion that we made a
unanimous vote in the trade section for
recommendations as it relates to defending
domestic production in the United States, there
are both a House and a Senate Bill, H.R. 101 and
Senate Bill 16, that are currently looking to take
our policy recommendation into law.

    And I wanted to know if it would be the
pleasure of the committee to make a formalized
vote on the support of H.R. 101 and Senate Bill
16, which is the Domestic Protection Act, to lend
further credence to our policy recommendation.

MR. SIEVERT: Could we have copies of those bills before we ---

MR. HUGHES: Wait, let me ask this question first. Are we amending the approved trade or this is just an additional?

MS. HARPER-LARSEN: Just an additional, I don't know, separate.

MR. HUGHES: Yeah, you can do what you want. Then you have to put it in writing and then approve. Or, I mean, it's on the record here in minutes. But if someone wants minutes it's -- we're, like, almost out of time here today.

CHAIR CARR: Well, I mean --

(Simultaneous speaking.)

CHAIR CARR: Let me have the chair, Darrell. So we've already adopted the language that supports those bills, but remember, our job is to recommend to the Secretary or to make a statement.

So this is legislation. So is your recommendation that this committee recommends that
the U.S. Secretary of Agriculture should support
and work for the passage of those bills?

MS. HARPER-LARSEN: Yes.

CHAIR CARR: Okay. Since nobody has
seen those bills, I would have to say that -- I'd
recommend that we circulate those bills. And then
we can come back together via email and vote on
them.

MR. ZEA: So bills by review of the
Senate.

CHAIR CARR: So have I agreed to work
with you on this?

MS. HARPER-LARSEN: But they are
supported by a multi- --- it's a bilateral support,
multi-state.

MR. WILKINS: But there is bilateral
multi-state objection to that. And I think that
-- I hate to overstep what we agreed on today. If
you do that, then it weakens the stance we made
today. It changes the stance we did today. And
I think you're taking one step back to come back
to doing something we didn't agree to today. I
strongly disagree with that.

CHAIR CARR: Yes, Charles?

MR. WINGARD: I'm not sure exactly what our charter says. I don't have it right in front of me. But I think we were charged to make recommendations to the Secretary of Agriculture on how he can lead his agency forward to help our industry. And Kiley understands that would be one way to do it. But I don't think we should --

CHAIR CARR: I don't think that was our charge.

MR. WINGARD: No. I just don't think we should get into lobbying for passage of this or that. I mean, I do think we have to protect the industry. I get that completely. But that's for people on Capitol Hill to figure out, not for this group.

We may have all got in here and in two hours be lobbying for individuals, but as a group I think we're charged to recommend to the Secretary what we think he needs to do to help our industry.
CHAIR CARR: And, Charles, just following that -- serving on another USDA committee, you are not allowed to take a position on legislation. You can go up there on the Hill as yourself, or represent your company. But you can never, ever go up and say as a member of the USDA Food Advisory Committee, I recommend you support this. You cannot do that.

I mean, I probably should have done that from the opening. So I would say that, Kiley, I understand your position. So if you want to move forward with it, then I'm going to say that we have submit the bills to everybody, and then everybody can think about it. Otherwise, would you accept the language as it's adopted today that covers the very same things you're trying to say?

MS. HARPER-LARSEN: So I would just make the commentary that I put a motion on the floor. If I don't see a second to it, then it's going to fall flat according to Robert's Rules of Order which dictates our committee's standing.
But what I think is very important to note is that the policy recommendation that we put forward does not say the same thing as both of those bills, and it does not have the teeth.

MR. WILKINS: We are not in legislative recommendations.

MR. TALBOTT: The other problem we've got is legislation is a moving target. And to say I support X, by the time it goes through legislative meat grinding --

PARTICIPANT: It'll be amended.

MR. TALBOTT: It can be ugly. And it may not say anything close to --

CHAIR CARR: There is a motion on the floor. Is there a second for that motion?

(No audible response.)

CHAIR CARR: Hearing no second --

MS. HARPER-LARSEN: It dies.

CHAIR CARR: -- it dies.

MS. HARPER-LARSEN: Thank you though for the consideration.

CHAIR CARR: We put it on the record.
And we have all discussed it. So is there anything else to come before this Committee?

MR. WINGARD: Mr. Chairman, I'd like to commend everybody here for their commitment to the industry. It's been great getting to know you all. I hope it was great, I hope it was someone goes on getting the ---

(Laughter.)

MR. WINGARD: But thank you to everybody for --- I think that everybody should be commended for the giving of their time and their talent to this process, and to the USDA staff, and to those visitors in the room. And with that, and thank you, Mr. Chairman, for leading us. And with that, I make a motion we adjourn.

PARTICIPANT: Second.

CHAIR CARR: Motion to adjourn, seconded, so admitted. Thanks everybody, travel safe home.

(Whereupon, the above-entitled matter went off the record at 11:45 a.m.)
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In the matter of: Fruit and Vegetable Industry Advisory Committee Meeting

Before: USDA

Date: 08-15-19

Place: Arlington, VA

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